

The Planning Inspectorate

PLANNING APPEAL FORM

WARNING: The appeal and essential supporting documents must reach the Inspectorate within the appeal period. If your appeal and essential supporting documents are not received in time, we will not accept the appeal.

A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name

Mr J Lawrence

Address

No:40
Coventry Road
Burbage
Leicestershire.LE10 2HP

Preferred contact method

Email ☐ Post ☒

B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes ☒ No ☐

Name

Mr M Ladd

Address

The Carhouse, Charnells Court
Upperfields Farm, Sweptstone.
Leicestershire.LE67 2SG

Phone number

(07525) 932713

Email

martinladd21@gmail.com

Preferred contact method

Email ☒ Post ☐

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

Hinckley and Bosworth Borough Council

LPA reference number

23/00824/OUT

Date of the application

22/08/2023

Did the LPA validate and register your application?

Yes ☒ No ☐

Did the LPA issue a decision?

Yes ☒ No ☐

Date of LPA's decision

16/01/2025

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes ☐ No ☒

Does the appeal relate to an existing property?

Yes ☐ No ☒

Address

Land to the off Barwell Lane
Kirby Mallory
Leicestershire
LE67 7QA

Is the appeal site within a Green Belt?

Yes ☐ No ☒

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes ☐ No ☒

E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form?

Yes ☐ No ☒

Please enter details of the proposed development. This should normally be taken from the planning application form.

Erection of 7 Dwellings,inc. 3 Self-Build Dwellings and Garages
(Outline Application with all Matters Reserved)

Area (in hectares) of the whole appeal site [e.g. 1234.56]

0.50ha

Does the proposal include demolition of non-listed buildings within a conservation area?

Yes ☐ No ☒

F. REASON FOR THE APPEAL

The reason for the appeal is that the LPA has:

1. Refused planning permission for the development. ☒
2. Refused permission to vary or remove a condition(s). ☐
3. Refused prior approval of permitted development rights. ☐
4. Granted planning permission for the development subject to conditions to which you object. ☐
5. Refused approval of the matters reserved under an outline planning permission. ☐
6. Granted approval of the matters reserved under an outline planning permission subject to conditions to which you object. ☐
7. Refused to approve any matter required by a condition on a previous planning permission (other than those specified above). ☐
8. Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval. ☐
9. Failed to give notice of its decision within the appropriate period because of a dispute over provision of local list documentation. ☐

G. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

☒

- (a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes ☐ No ☒
- (b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes ☒ No ☐
- Please explain.

The LPA's concerns (RfR:2) are regarding the setting and landscape context and the relationship with the adjacent land and settlement and it is considered that these matters may be better assessed from within the appeal site as well as from around it.

2. Hearing ☐

3. Inquiry ☐

H. FULL STATEMENT OF CASE

☒ see 'Appeal Documents' section

Do you have a separate list of appendices to accompany your full statement of case? Yes ☒ No ☐

☒ see 'Appeal Documents' section

(a) Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? (Please attach draft version if available) Yes ☐ No ☒

(b) Have you made a costs application with this appeal? Yes ☐ No ☒

I. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates; ☒

CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below: ☐

CERTIFICATE C and D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below. ☐

I. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding. ☒

(b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant. ☐

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below. ☐

J. SUPPORTING DOCUMENTS

01. A copy of the original application form sent to the LPA. ☒
02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (if these did not form part of the LPA's planning application form). ☐
03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application. ☒
04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue. ☒
05. (a) Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA. ☒
05. (b) A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA. ☐
- 05.(c) A list of all plans, drawings and documents upon which the LPA made their decision. ☐
06. (a) Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application. ☐
06. (b) A list of all plans, drawings and documents (stating drawing numbers) which did not form part of the original application. ☐
07. A copy of the design and access statement sent to the LPA (if required). ☐
08. A copy of a draft statement of common ground if you have indicated the appeal should follow the hearing or inquiry procedure. ☐
09. (a) Additional plans, drawings or documents relating to the application but not previously seen by the LPA. Acceptance of these will be at the Inspector's discretion. ☐
09. (b) A list of all plans and drawings (stating drawing numbers) submitted but not previously seen by the LPA. ☐
10. Any relevant correspondence with the LPA. Including any supporting information submitted with your application in accordance with the list of local requirements. ☐
11. If the appeal is against the LPA's refusal or failure to approve the matters reserved under an outline permission, please enclose:
- (a) the relevant outline application; ☐
- (b) all plans sent at outline application stage; ☐
- (c) the original outline planning permission. ☐
12. If the appeal is against the LPA's refusal or failure to decide an application which relates to a condition, we must have a copy of the original permission with the condition attached. ☐
13. A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA). ☐
14. If the appeal is against the LPA's refusal or failure to decide an application because of a dispute over local list documentation, a copy of the letter sent to the LPA which explained why the document was not necessary and asked the LPA to waive the requirement that it be provided with the application. ☐

K. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided?

Yes

☐ No



Please give details, including our reference number(s), if known.

L. CHECK SIGN AND DATE

(All supporting documents must be received by us within the time limit)

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full statement of case) to the LPA today.

Signature

Mr M Ladd

Date

16/07/2025

Name

Mr M Ladd

On behalf of

Mr J Lawrence

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018. Further information about our Data Protection policy can be found on our website under Privacy Statement.

M. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full statement of case) not previously sent as part of the application to the LPA. If you do not send them a copy of this form and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

N. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. Please ensure that any correspondence you send to us is clearly marked with the appeal reference number.

You will not be sent any further reminders.

Documents Submitted with this Appeal Form include:

Appeal Statement of Case

- Appendix 1 - Application Form**
- Appendix 2 - Site Location Plan**
- Appendix 3 - Topographical Survey**
- Appendix 4 - Illustrative Site Layout Plan**
- Appendix 5 - Illustrative Layout Plan inc. Landscaping to Blue Land**
- Appendix 6 - Planning Statement**
- Appendix 7 - Landscape Report**
- Appendix 8 - Ecology Assessment Survey**
- Appendix 9 - Noise Assessment**
- Appendix 10 - History of Kirby Mallory (Nichols)**
- Appendix 11 - Historical Elevation View of Kirby Hall (Nichols)**
- Appendix 12 - Further Justification from Agent**
- Appendix 13 - Additional Information from Agent**
- Appendix 14 - Planning Officer's Report**
- Appendix 15 - Decision Notice**

Completed by

Mr M Ladd

Date

16/07/2025

APPEAL STATEMENT of CASE

PLANNING APPLICATION REF.No:23/00824/OUT

LOCAL PLANNING AUTHORITY:
Hinckley and Bosworth Borough Council

DATE of DECISION:16th January 2025

DESCRIPTION of THE DEVELOPMENT PROPOSAL:

Outline Planning Application for the Construction of up to 7 dwellings, including 3 Self-Build Dwellings and Garages (Re-submission of Planning Application Ref. No:22/01181/OUT)

APPLICATION SITE ADDRESS:
Land off Barwell Lane, Kirby Mallory,Leicestershire.LE67 7QA

DATE:12th July 2025
REF:HMD/APP/23/00824/OUT/01

HMD
ARCHITECTURE
PLANNING & SURVEYING

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1.0 INTRODUCTION:

1.1 The Decision Notice for refusal as issued by the Council was for the proposed development for the erection of seven dwellings (inc. three-build dwellings) (Outline Planning Application with all Matters Reserved) has resulted in this Planning Appeal.

1.2 The Outline Planning Application was validated on the 22nd of August 2023 and refused on the 16th of January 2025 by Hinckley and Bosworth Borough Council.

1.3 The Appeal Statement of Case includes the following documents:

- i) Application Form
- ii) Site Location Plan
- iii) Topographical Survey
- iv) Illustrative Site Layout Plan
- v) Illustrative Layout inc. Landscaping to Blue Land
- vi) Planning Statement
- vii) Landscape Report
- viii) Ecology Assessment Survey
- ix) Noise Assessment
- x) History of Kirby Mallory (Nichols)
- xi) Historical Elevation View of Kirby Hall (Nichols)
- xii) Further Justification from Agent
- xiii) Additional Information from Agent
- xiv) Planning Officer's Delegated Report
- xv) Decision Notice

2.00 APPEAL SITE

2.01 The appeal site encompasses a parcel of land with an area of 0.5ha, being part of a larger parcel of land, and used in conjunction with horseculture activities located to the east off Barwell Lane, Kirby Mallory.

2.02 The site is positioned on land designated as countryside in the Local Plan and abuts the Kirby Mallory existing settlement boundary, adjoining existing residential properties.

2.03 The appeal site is well contained by existing mature trees and hedgerows and is afforded a vehicle and pedestrian access via an existing field gate with Barwell Lane.

2.04 The site is considered to be in a sustainable location and not in an isolated location given the amount of services, facilities and employment opportunities available within walking distance from the appeal site.

2.05 The land to the north-east of the site is retained a horse grazing paddocks.

3.00 RELEVANT PLANNING HISTORY

3.01 The appeal site has been subject to the following planning applications:

Planning Application Ref.No:22/01181/OUT - Erection of 7 Dwelling Houses and Garaging with Access Only to be Considered - Refused 9th of February 2023:

Planning Application Ref.No: 21/01061/OUT - Erection of up to 27 Dwellings - Submitted 20th August 2022 - Status *Undecided*:

4.00 THE DEVELOPMENT PROPOSAL

4.01 The Development Proposal is comprised of four Market Dwellinghouses and three Self-Build Dwellinghouses with the appeal being submitted for details of layout, scale, appearance, access and landscaping reserved for future consideration at a reserved matters application stage.

4.02 An Illustrative Site Layout Plan seeks to provide an indicative achievable housing layout within the appeal site incorporating vehicle parking/turning areas and an access arrangement with Barwell Road.

5.00 REASONS for REFUSAL

5.01 The Council's stated two issues for refusal relate to (No:1) the site's unsustainable location giving rise to significant environmental harm and (No:2) the site's significant urbanising effect upon the open character and landscape character of the countryside.

- RfR:1 The principle of housing development on this site
- RfR:2 The effect on the character of the area and the countryside.

6.00 CONSULTEE RESPONSES

6.1 LCC Highway Authority - advice that “ *the impacts of the development on highway safety would not be unacceptable, and when considered with other developments, the impacts on the road network would not be severe*”.

6.2 LCC Ecology - “*no objections subject to a condition*”.
(Re:P/app.Ref.No:22/01181/OUT)

6.3 HBBC Waste - “*no objection subject to a condition*”.

6.4 HBBC Environmental Health - “*condition requested*”.

6.5 HBBC Drainage - “*no objection subject to a condition*”.

6.6 Kirby Mallory, Peckleton & Stapleton PC - “*strongly object*”.

7.00 APPELLANT'S CASE AND PLANNING POLICY CONTEXT AND HLS

7.1 The development plan relevant to this appeal comprises of the Core Strategy DPD 2006-2026 (adopted 2009) (CS) and the Site Allocations and Development Management DPD (adopted 2016) (SADMP).

7.2 Planning Law requires that applications for planning permission must be made in accordance with the development plan unless material considerations indicate otherwise. The NPPF (2024) does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

7.3 Relevant Policies inc:

Core Strategy (2009)

Policy 13: Rural Hamlets

Policy: Rural Needs:

SADMP DPD (2016)

Policy DM1: Presumption in Favour of Sustainable Development
Policy DM4: Safeguarding the Countryside and Settlement Separation
Policy DM10: Development and Design
Policy DM17: Highways and Transportation
Policy DM18: Vehicle Parking Standards

National Planning Policies and Guidance

National Planning Policy Framework (2024)
Planning Practice Guidance (PPG)
National Design Guide (2019)
Self-Build and Custom Housebuilding Act (2015)

Other Guidance

HBBC Housing Needs Study (2024)
Leicestershire Highways Design Guide (2022)
Good Design Guide (2020)

7.4 Within the Case Officer's report it is noted that Council - in refusing planning permission for the development proposal - acknowledge that a) they **cannot** demonstrate a 5-year land supply of housing and b) are **failing** in their statutory duty to permit a sufficient number of self-builds.

7.5 The said delegated report states that *"the provision of 7 dwellings is not considered to be a significant benefit to the housing supply within the borough"* and therefore **"limited weight to moderate weight only should be given to the benefits of the application in terms of housing land supply"** and in respect of the self-build element of the application the **"provision is considered to attract moderate to significant weight in the determination of this application"**.

7.6 The Council's RfR:1 states that *"the future occupants of the scheme would be dependent private motorised transport to meet their day-to-day needs and this results in significant environmental harm"*.

7.7 The SADMP DPD notes that rural hamlets are small rural settlements with limited to no service provision, public transport provision or a retail offering and largely have no employment provision.

7.8 The Core Strategy (2009) does not allocate housing figures for rural hamlets as significant residential growth in these types of settlements is considered unsustainable and identifies sixteen settlements - including Kirby Mallory - as a rural hamlet, together with another three settlements with similar characteristics of a rural hamlet.

7.9 Unlike the other fifteen settlements identified as rural hamlets, the settlement of Kirby Mallory is considered sustainable in location terms given that with the appeal site abutting the settlement urban fringe, a walking travel distance of circa:100m - 600m provides access to the following services, facilities and employment opportunities:

- a convenience shop - 110m
- a recreational play area - 120m
- a restaurant - 160m
- a school - 210m
- a place of worship - 460m
- employment opportunities - 550m
- a major tourist attraction - 620m

7.10 It is considered that The Core Strategy (2009) has reduced weight due to the Council's HLS and the lack of sufficient new housing sites coming forward as originally envisaged and with the unlikely event of the undersupply being met through the formal planning process.

7.11 The Council's RfR2 states that *"the development for seven dwellings on this site would result in a **significant** detrimental, irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character and landscape character of the countryside"*.

7.12 The appellant's Landscape Report (Landscape Architects) note:

*"in terms of magnitude of effect, the proposal is likely to result in a relative low change to the character of the settlement and the local setting of the site, leading to a **moderate to minor** adverse landscape effect in the short-term" and "this level of effect is not considered to be significant in the reading of Policy DM4(i)" and, "moving away from the site the proposal will be seen over a distance and in the established residential backdrop of the existing settlement. The likely magnitude of effect will be **low** resulting in short-term **moderate to minor** visual effect, reducing to **minor** adverse in the long-term as the new landscaping matures and softens the appearance of the new housing"*.

7.13 In conclusion the Landscape Report notes;

*“it is considered that whilst this proposal will result in a range of **moderate** short-term and **minimal** long-term adverse landscape and visual effects, these are the range of effects that are common to and typically expected of most new housing developments”.*

7.14 The new Local Plan commenced preparation in 2018 with consultations having taken place on 2021/2022 - however the Council has recently undertaken a new consultation in mid-2024 in respect of a revised plan to accommodate the needs for housing in Leicester City (SSoCG) and the said revised plan is considered to be in the early stages of gestation at this time.

7.15 The Council has most recently confirmed that it can only demonstrate a 3.55 year supply of housing compared to the 5 year supply requirement as set out in the current Framework (2024) and therefore a significant material shortfall currently exists in the supply of deliverable housing sites locally.

7.16 In respect of residential development within the countryside and in a Green Wedge location - Planning Appeal Ref:APP/K2420/W/24/3348387 (13.03. 2025) - the Inspector notes:

para:14 *“the Council recognises that in light of the present HLS position (3.55 years) **limited** weight can be given to the conflict with SAMD DM4(i)”* and finds in

para:41 *“the principle of development in this area of countryside conflicts with SAMD Policy DM but this only carries **limited weight** because of the Council’s HLS position. The proposal would cause some **moderate** harm to the rural landscape character of the area and to a **limited** geographical area but would **not** result in a **significant adverse** effect which is the test set out in criteria (i) of Policy DM4 and criteria (a) of Policy DM10”.*

8.00 CONCLUSION

8.01 It is acknowledged whilst tension exists with SADMP Policy DM4 and DM10 for the development proposal, it is considered that only **limited** conflict exists given the current shortfall in the HLS for market housing and self-build plots and the development proposal for 7 dwellings would provide a meaningful contribution the undersupply.

8.02 It is considered that the appeal site is located in a sustainable location with the settlement of Kirby Mallory offering sufficient services and facilities for the future occupiers of the new dwellings not to be wholly reliant on the motor car for their day-to-day requirements with the development proposal having *low to moderate* environmental harm.

8.03 The Landscape Report concludes that the implementation of the development proposal for the reception 7 dwellings with associated works would have a *minimal* long term resultant adverse impact upon the landscape - commonly expected with most new housing developments.

8.04 The housing policies in both the adopted Core Strategy (2009) and the SADMP DPD (2016) are out-of-date given that they focused on the delivery of a lower quantum figure of housing as is now required.

8.04 In the weighted planning balance it is considered therefore the test of NPPF (2004) paragraph 11(d) should be applied whereby the adverse effects of the development proposal and the loss of a small parcel land are considered to greatly outweighed by the benefits of the development proposal in a sustainable location.

8.05 The appeal site forms (in-part) a parcel of land in the Council's (2018) (20220) SHELAA under Ref.No:AS461 - having been properly assessed recognised as being suitable, available and achievable without constraints for up to 27 dwellings (2018) (Application Ref No:21/01061/OUT- undecided) and for 31 dwellings respectively.

HMD
2025

8.00 APPENDICES

- Appendix 1 - Application Form
- Appendix 2 - Site Location Plan
- Appendix 3 - Topographical Survey
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Please complete this form in block capitals using black ink to facilitate scanning.
You are advised to read the accompanying guidance notes and per-question help text.
If you would rather make this application online, you can do so on our website:
<https://www.planningportal.co.uk/apply>

Application for Outline Planning Permission With Some Matters Reserved

Town and Country Planning Act 1990 (as amended)

Privacy Notice

This form is provided by Planning Portal and based on the requirements provided by Government for the sole purpose of submitting information to the Local Planning Authority in accordance with the legislation detailed on this form and The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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Upon receipt of this form and any supporting information, it is the responsibility of the Local Planning Authority to inform you of its obligations in regards to the processing of your application. Please refer to its website for further information on any legal, regulatory and commercial requirements relating to information security and data protection of the information you have provided.

Local Planning Authority details:



**Hinckley & Bosworth
Borough Council**

planning@hinckley-bosworth.gov.uk
01455 238141

Hinckley Hub
Rugby Road
Hinckley
Leics
LE10 0FR

Publication on Local Planning Authority websites

Information provided on this form and in supporting documents may be published on the authority's planning register and website. Please ensure that the information you submit is accurate and correct and does not include personal or sensitive information. If you require any further clarification, please contact the Local Planning Authority directly.

1. Applicant Name and Address

Title:	MR.	First name:	J.
Last name:	LAWRENCE		
Company (optional):			
Unit:		House number:	
		House suffix:	
House name:			
Address 1:			
Address 2:			
Address 3:			
Town:			
County:			
Country:			
Postcode:			

2. Agent Name and Address

Title:		First name:	
Last name:			
Company (optional):	SANSOM CLARKE CHARTERED SURVEYORS		
Unit:		House number:	
		House suffix:	
House name:	No:4 STATION ROAD		
Address 1:			
Address 2:			
Address 3:			
Town:	IBSTOCK		
County:	LEICESTERSHIRE		
Country:			
Postcode:	LE67 6JJ		

3. Description of the Proposal

Please indicate those reserved matters for which approval is being sought (tick all that apply):

☒ None ☐ Access ☐ Appearance ☐ Landscaping ☐ Layout ☐ Scale

Please describe the proposed works:

ERECTION OF UP TO SEVEN DWELLING HOUSES AND GARAGING:

Has the building or works already started?

☐ Yes ☒ No

If Yes, please state the date when building or works were started (DD/MM/YYYY):

N/APP (date must be pre-application submission)

Have the building or works been completed?

☐ Yes ☒ No

If Yes, please state the date when the building or works were completed (DD/MM/YYYY):

N/APP (date must be pre-application submission)

Is the proposal for public service infrastructure development (within the meaning of article 2 of S.I. 2015/595 as amended by article 3 of S.I. 746/2021)?

☐ Yes ☒ No

4. Site Address Details

Please provide the full postal address of the application site.

Unit: House number: House suffix:

House name: **LAND LOCATED TO THE EAST**

Address 1: **OFF BARWELL LANE**

Address 2:

Address 3:

Town: **KIRBY MALLORY**

County: **LEICESTERSHIRE**

Postcode (optional): **LE9 7QA**

Description of location or a grid reference. (must be completed if postcode is not known):

Easting: Northing:

Description:

5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

☒ Yes ☐ No

If Yes, please complete the following information about the advice you were given. (This will help the authority to deal with this application more efficiently).

Please tick if the full contact details are not known, and then complete as much as possible: ☐

Officer name:

Reference:

Date (DD/MM/YYYY):
(must be pre-application submission)

Details of pre-application advice received?

SHELAA 2018/2020 REF.No: AS461

6. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicle access proposed to or from the public highway? ☐ Yes ☐ No ☒ Unknown

Is a new or altered pedestrian access proposed to or from the public highway? ☐ Yes ☐ No ☒ Unknown

Are there any new public roads to be provided within the site? ☐ Yes ☒ No ☐ Unknown

Are there any new public rights of way to be provided within or adjacent to the site? ☐ Yes ☒ No ☐ Unknown

Do the proposals require any diversions /extinguishments and/or creation of rights of way? ☐ Yes ☒ No ☐ Unknown

If you answered Yes to any of the above questions, please show details on your plans/drawings and state the reference of the plan (s)/drawings(s)

REF:DRAWING No:00501/SC/01A

7. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? ☐ Yes ☐ No ☒ Unknown

If Yes, please provide details:

REF:DRAWING No:00501/SC/01A

Have arrangements been made for the separate storage and collection of recyclable waste? ☐ Yes ☐ No ☒ Unknown

If Yes, please provide details:

AS ABOVE

8. Authority Employee / Member

It is an important principle of decision-making that the process is open and transparent. For the purposes of this question, "related to" means related, by birth or otherwise, closely enough that a fair-minded and informed observer, having considered the facts, would conclude that there was bias on the part of the decision-maker in the local planning authority.

Do any of the following statements apply to you and/or agent? ☐ Yes ☒ No With respect to the authority, I am:
(a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

If Yes, please provide details of their name, role and how you are related to them.

N/APP

9. Materials

If applicable, please state what materials are to be used externally. Include type, colour and name for each material:

	Existing (where applicable)	Proposed	Not applicable	Don't Know
Walls			☒	☐
Roof			☒	☐
Windows			☒	☐
Doors			☒	☐
Boundary treatments (e.g. fences, walls)			☒	☐
Vehicle access and hard-standing			☒	☐
Lighting			☒	☐
Others (please specify)			☒	☐

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?

☒ Yes

☐ No

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

REF: DRAWING No:00501/SC/01A:
PLUS PLANNING STATEMENT

10. Vehicle Parking

Please provide information on the existing and proposed number of on-site parking spaces:

Type of Vehicle	Total Existing	Total proposed (including spaces retained)	Unknown total proposed (including spaces retained)	Difference in spaces
Cars	3		☒	+18
Light goods vehicles/ public carrier vehicles			☐	
Motorcycles			☐	
Disability spaces			☐	
Cycle spaces			☐	
Other (e.g. Bus)			☐	
Other (e.g. Bus)			☐	

11. Foul Sewage

Please state how foul sewage is to be disposed of:

- | | |
|--|---|
| ☐ Mains sewer | ☐ Cess pit |
| ☐ Septic tank | ☐ Other |
| ☐ Package treatment plant | ☒ Unknown |

Are you proposing to connect to the existing drainage system? ☒ Unknown ☐ Yes ☐ No

If Yes, please include the details of the existing system on the application drawings and state references for the plan(s)/drawing(s):

12. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.)

☐ Yes ☒ No

If Yes, you will need to submit a Flood Risk Assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)? ☐ Yes ☒ No

Will the proposal increase the flood risk elsewhere? ☐ Yes ☒ No

How will surface water be disposed of?

- | | |
|---|---|
| ☒ Sustainable drainage system | ☐ Existing watercourse |
| ☐ Soakaway | ☐ Pond/lake |
| ☐ Main sewer | |

13. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes for further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals.

Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

a) Protected and priority species:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

b) Designated sites, important habitats or other biodiversity features:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

c) Features of geological conservation importance:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

14. Existing Use

Please describe the current use of the site:

HORSICULTURE

Is the site currently vacant? ☒ Yes ☐ No

If Yes, please describe the last use of the site:

AS ABOVE

When did this use end (if known)?
(DD/MM/YYYY)

(date where known may be approximate)

NOT KNOWN

Does the proposal involve any of the following?

If yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated? ☐ Yes ☒ No

Land where contamination is suspected for all or part of the site? ☐ Yes ☒ No

A proposed use that would be particularly vulnerable to the presence of contamination? ☐ Yes ☒ No

15. Trees and Hedges *NOT AFFECTED BY THE PROPOSAL

Are there trees or hedges on the proposed development site? ☐ Yes ☒ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character? ☒ Yes ☐ No

If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

16. Trade Effluent

Does the proposal involve the need to dispose of trade effluents, or waste? ☐ Yes ☒ No

If Yes, please describe the nature, volume and means of disposal of trade effluents or waste

N/APP

17. Residential Units (Including Conversion)

Does your proposal include the gain, loss or change of use of residential units?
If Yes, please complete details of the changes in the tables below:

☒ Yes

☐ No

Proposed Housing							Existing Housing								
Market Housing	Not known	Number of Bedrooms					Total	Market Housing	Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	☐					X	4	Houses	☐						
Flats/maisonettes	☐							Flats/maisonettes	☐						
Sheltered housing	☐							Sheltered housing	☐						
Bedsit/studios	☐							Bedsit/studios	☐						
Cluster flats	☐							Cluster flats	☐						
Other	☐							Other	☐						
Totals (a+b+c+d+e+f) =							4	Totals (a+b+c+d+e+f) =							0
Social, Affordable or Intermediate Rent							Social, Affordable or Intermediate Rent								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	☐							Houses	☐						
Flats/maisonettes	☐							Flats/maisonettes	☐						
Sheltered housing	☐							Sheltered housing	☐						
Bedsit/studios	☐							Bedsit/studios	☐						
Cluster flats	☐							Cluster flats	☐						
Other	☐							Other	☐						
Totals (a+b+c+d+e+f) =							0	Totals (a+b+c+d+e+f) =							0
Affordable Home Ownership							Affordable Home Ownership								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	☐							Houses	☐						
Flats/maisonettes	☐							Flats/maisonettes	☐						
Sheltered housing	☐							Sheltered housing	☐						
Bedsit/studios	☐							Bedsit/studios	☐						
Cluster flats	☐							Cluster flats	☐						
Other	☐							Other	☐						
Totals (a+b+c+d+e+f) =							0	Totals (a+b+c+d+e+f) =							0
Starter Homes							Starter Homes								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	☐							Houses	☐						
Flats/maisonettes	☐							Flats/maisonettes	☐						
Bedsit/studios	☐							Bedsit/studios	☐						
Other	☐							Other	☐						
Totals (a+b+c+d) =							0	Totals (a+b+c+d) =							0
Self Build and Custom Build							Self Build and Custom Build								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	☐					X	3	Houses	☐						
Flats/maisonettes	☐							Flats/maisonettes	☐						
Bedsit/studios	☐							Bedsit/studios	☐						
Other	☐							Other	☐						
Totals (a+b+c+d) =							3	Totals (a+b+c+d) =							0
Total proposed residential units (A+B+C+D+E) =							+7	Total existing residential units (F+G+H+I+J) =							0

TOTAL NET GAIN or LOSS of RESIDENTIAL UNITS (Proposed Housing Grand Total - Existing Housing Grand Total): **UPTO 7**

18. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace? ☐ Yes ☒ No ☐ Unknown

If you have answered Yes to the question above please add details in the following table:

Use class/type of use	Not applicable	Existing gross internal floorspace (square metres)	Gross internal floorspace to be lost by change of use or demolition (square metres)	Unknown	Total gross internal floorspace proposed (including change of use)(square metres)	Unknown	Net additional gross internal floorspace following development (square metres)
A1	Shops	☐		☐		☐	
	Net tradable area:	☐		☐		☐	
A2	Financial and professional services	☐		☐		☐	
A3	Restaurants and cafes	☐		☐		☐	
A4	Drinking establishments	☐		☐		☐	
A5	Hot food takeaways	☐		☐		☐	
B1 (a)	Office (other than A2)	☐		☐		☐	
B1 (b)	Research and development	☐		☐		☐	
B1 (c)	Light industrial	☐		☐	N/APP	☐	
B2	General industrial	☐		☐		☐	
B8	Storage or distribution	☐		☐		☐	
C1	Hotels and halls of residence	☐		☐		☐	
C2	Residential institutions	☐		☐		☐	
D1	Non-residential institutions	☐		☐		☐	
D2	Assembly and leisure	☐		☐		☐	
OTHER		☐		☐		☐	
Please Specify		☐		☐		☐	
Total							

In addition, for hotels, residential institutions and hostels, please additionally indicate the loss or gain of rooms

Use class	Type of use	Not applicable	Existing rooms to be lost by change of use or demolition	Unknown	Total rooms proposed (including changes of use)	Unknown	Net additional rooms
C1	Hotels	☐		☐		☐	
C2	Residential Institutions	☐	N/APP	☐		☐	
OTHER		☐		☐		☐	
Please Specify		☐		☐		☐	

19. Employment

Please complete the following information regarding employees:

	Full-time	Part-time	Total full-time equivalent
Existing employees		N/APP	
Proposed employees			

20. Hours of Opening

If known, please state the hours of opening (e.g. 15:30) for each non-residential use proposed:

Use	Monday to Friday	Saturday	Sunday and Bank Holidays	Not known
		N/APP		

21. Site Area

Please state the site area in hectares (ha) **0.50HA**

22. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

N/APP

Is the proposal a waste management development? ☐ Yes ☒ No ☐ Unknown

If the answer is Yes, please complete the following table:

	Not applicable	The total capacity of the void in cubic metres, including engineering surcharge and making no allowance for cover or restoration material (or tonnes if solid waste or litres if liquid waste)	Unknown	Maximum annual operational throughput in tonnes (or litres if liquid waste)	Unknown
Inert landfill	☐		☐		☐
Non-hazardous landfill	☐		☐		☐
Hazardous landfill	☐		☐		☐
Energy from waste incineration	☐		☐		☐
Other incineration	☐		☐		☐
Landfill gas generation plant	☐		☐		☐
Pyrolysis/gasification	☐		☐		☐
Metal recycling site	☐		☐		☐
Transfer stations	☐		☐		☐
Material recovery/recycling facilities (MRFs)	☐	N/APP	☐		☐
Household civic amenity sites	☐		☐		☐
Open windrow composting	☐		☐		☐
In-vessel composting	☐		☐		☐
Anaerobic digestion	☐		☐		☐
Any combined mechanical, biological and/or thermal treatment (MBT)	☐		☐		☐
Sewage treatment works	☐		☐		☐
Other treatment	☐		☐		☐
Recycling facilities construction, demolition and excavation waste	☐		☐		☐
Storage of waste	☐		☐		☐
Other waste management	☐		☐		☐
Other developments	☐		☐		☐

Please provide the maximum annual operational throughput of the following waste streams:

Municipal	
Construction, demolition and excavation	N/APP
Commercial and industrial	
Hazardous	

If this is a landfill application you will need to provide further information before your application can be determined. Your waste planning authority should make clear what information it requires on its website.

23. Hazardous Substances

Does the proposal involve the use or storage of any of the following materials in the quantities stated below? ☐ Yes ☐ No ☒ Not applicable

If Yes, please provide the amount of each substance that is involved:

Acrylonitrile (tonnes)		Ethylene oxide (tonnes)		Phosgene (tonnes)	
Ammonia (tonnes)		Hydrogen cyanide (tonnes)		Sulphur dioxide (tonnes)	
Bromine (tonnes)		Liquid oxygen (tonnes)		Flour (tonnes)	
Chlorine (tonnes)		Liquid petroleum gas (tonnes)		Refined white sugar (tonnes)	

Other:

Other:

Amount (tonnes):

Amount (tonnes):

24. Ownership Certificates and Agricultural Land Declaration

One Certificate A, B, C, or D, must be completed with this application form

CERTIFICATE OF OWNERSHIP - CERTIFICATE A

Town and Country Planning (Development Management Procedure) (England) Order 2015 Certificate under Article 14

I certify/ The applicant certifies that on the day 21 days before the date of this application nobody except myself/ the applicant was the owner* of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding**

NOTE: You should sign Certificate B, C or D, as appropriate, if you are the sole owner of the land or building to which the application relates but the land is, or is part of, an agricultural holding.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural holding" has the meaning given by reference to the definition of "agricultural tenant" in section 65(8) of the Act.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

S.M. Clarke PP:SAMSON CLARKE

14/08/2023

CERTIFICATE OF OWNERSHIP - CERTIFICATE B

Town and Country Planning (Development Management Procedure) (England) Order 2015 Certificate under Article 14

I certify/ The applicant certifies that I have/ the applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land or building to which this application relates.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

Name of Owner / Agricultural Tenant	Address	Date Notice Served
	N/APP	

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

24. Ownership Certificates and Agricultural Land Declaration (continued)

CERTIFICATE OF OWNERSHIP - CERTIFICATE C

I certify/ The applicant certifies that:

- Neither Certificate A or B can be issued for this application
- All reasonable steps have been taken to find out the names and addresses of the other owners* and/or agricultural tenants** of the land or building, or of a part of it, but I have/ the applicant has been unable to do so.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

The steps taken were:

--

Name of Owner / Agricultural Tenant	Address	Date Notice Served
	N/APP	

Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):

--

On the following date (which must not be earlier than 21 days before the date of the application):

--

Signed - Applicant:

--

Or signed - Agent:

--

Date (DD/MM/YYYY):

--

CERTIFICATE OF OWNERSHIP - CERTIFICATE D

Town and Country Planning (Development Management Procedure) (England) Order 2015 Certificate under Article 14

I certify/ The applicant certifies that:

- Certificate A cannot be issued for this application
- All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land to which this application relates, but I have/ the applicant has been unable to do so.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

The steps taken were:

N/APP

Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):

--

On the following date (which must not be earlier than 21 days before the date of the application):

--

Signed - Applicant:

--

Or signed - Agent:

--

Date (DD/MM/YYYY):

--

25. Planning Application Requirements - Checklist

Please read the following checklist to make sure you have sent all the information in support of your proposal. Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority (LPA) has been submitted.

The original and 3 copies* of a completed and dated application form:



The correct fee:



The original and 3 copies* of the plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North:



The original and 3 copies* of a design and access statement, if required (see help text and guidance notes for details):



The original and 3 copies* of other plans and drawings or information necessary to describe the subject of the application:



The original and 3 copies* of the completed, dated Ownership Certificate (A, B, C or D – as applicable) and Article 14 Certificate (Agricultural Holdings):



*National legislation specifies that the applicant must provide the original plus three copies of the form and supporting documents (a total of four copies), unless the application is submitted electronically or, the LPA indicate that a smaller number of copies is required. LPAs may also accept supporting documents in electronic format by post (for example, on a CD, DVD or USB memory stick). You can check your LPA's website for information or contact their planning department to discuss these options.

Plans can be bought from one of the Planning Portal's accredited suppliers: <https://www.planningportal.co.uk/buyaplanningmap>

26. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

S.M. Clarke PP:SAMSON CLARKE

14/08/2023

(date cannot be pre-application)

27. Applicant Contact Details

Telephone numbers

Country code:

National number:

Extension number:

Country code:

Mobile number (optional):

Country code:

Fax number (optional):

Email address (optional):

28. Agent Contact Details

Telephone numbers

Country code:

National number:

Extension number:

Country code:

Mobile number (optional):

(07850) 661180

Country code:

Fax number (optional):

Email address (optional):

stevenclarke@sansomclarke.co.uk

29. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

☐ Yes

☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

☐ Agent

☐ Applicant

☐ Other (if different from the agent/applicant's details)

If Other has been selected, please provide:

Contact name:

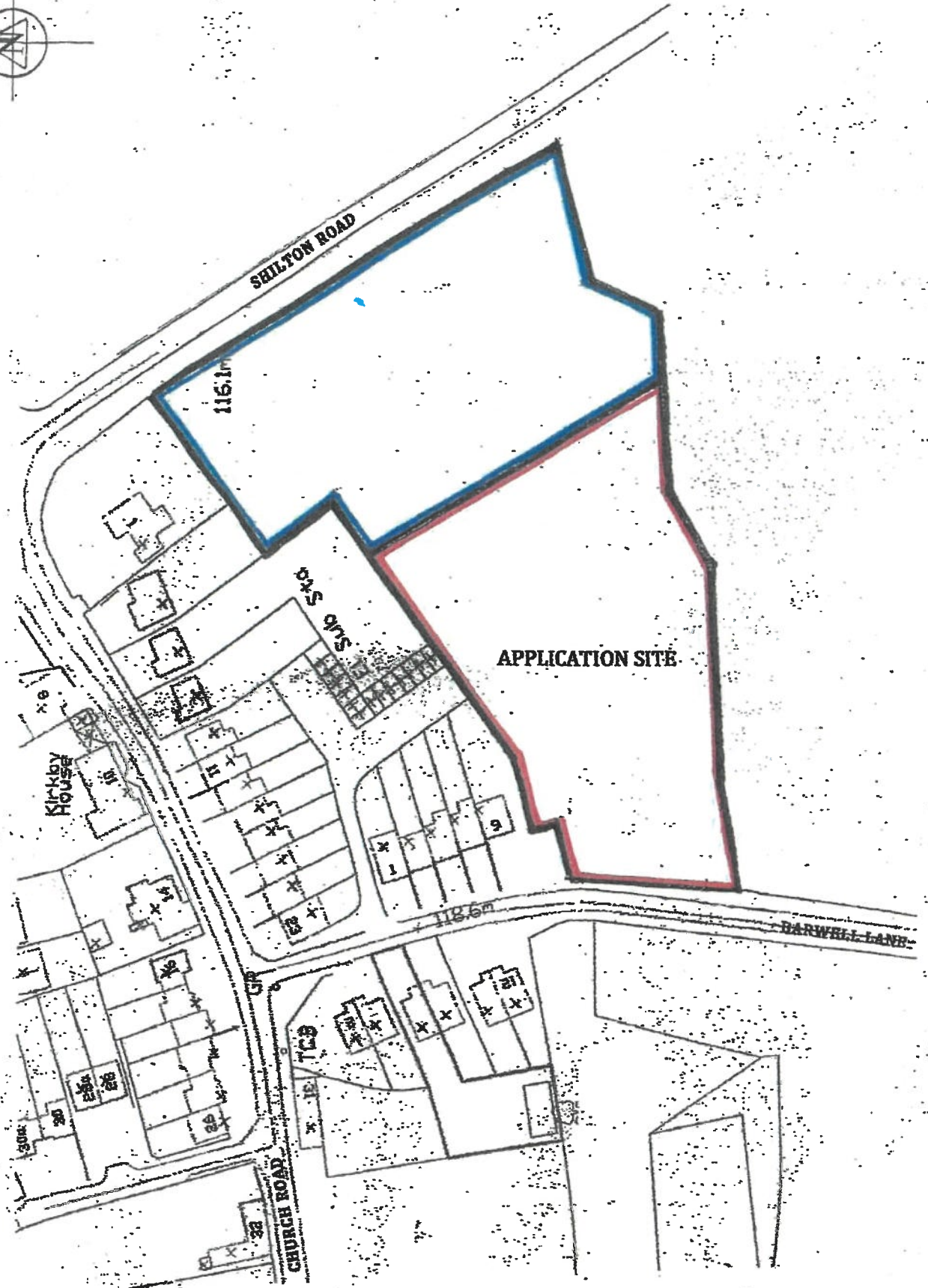
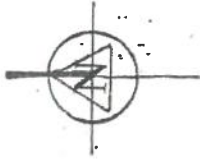
Telephone number:

AS ABOVE

AS ABOVE

Email address:

AS ABOVE



LOCATION PLAN 1:1250

**SANSOM CLARKE
CHARTERED SURVEYORS**

SCALE:1:1250 @ A4 11/22

KEY:

- 1 - PROPOSED NEW ACCESS ARRANGEMENT
- 2 - EXISTING MODIFIED ACCESS ARRANGEMENT
- 3 - ILLUSTRATED INTERNAL PRIVATE FOOTWAY
- 4 - ILLUSTRATED INTERNAL ACCESS ROADWAY
- 5 - ILLUSTRATED EMERGENCY/SERVICE VEHICLE TURNING
- 6 - ILLUSTRATED DWELLINGS
- 7 - ILLUSTRATED ANCILLARY GARAGES
- 8 - EXISTING RESIDENTIAL DEVELOPMENT
- 9 - EXISTING SHARED PARKING/CARAGING
- 10 - EXISTING RETAINED FIELD BOUNDARY HEDGEROW
- 11 - NEW BOUNDARY HEDGEROW PLANTING
- 12 - EXISTING RETAINED HEDGEROW TREES
- 13 - ILLUSTRATED NEW SPECIMEN TREE PLANTING
- 14 - WASTE/RECYCLING BIN COLLECTION AREA
- 15 - APPLICATION SITE BOUNDARY

POTENTIAL TREE PLANTING SCREEN (?)
(TO THE DIRECTION OF THE LPA)

APPLICATION SITE
(SITE AREA = 0.650HA)

PROPOSED NEW ACCESS ARRANGEMENT 1:200

ILLUSTRATIVE SITE LAYOUT PLAN 1:500

SANSOM CLARKE
CHARTERED SURVEYORS
DRAWING No:09801/SC/01
SCALE 1:500/1:200/1:1000 AS 11/72

EXISTING FIELD ACCESS ARRANGEMENT TO BE PERMANENTLY
CLOSED TO VEHICLES TRAFFIC NOT RETAINED TO FACILITIES
NEW INTERNAL FOOTWAY LINING WITH PUBLIC FOOTWAY



**PLANNING STATEMENT
(INCLUDING DESIGN AND ACCESS)**

FOR

**THE PROPOSED ERECTION OF UP TO 7 DWELLINGS
(3 Self-Build/Custom Build Dwellings & 4 Market Dwellings)**

**LAND TO THE EAST OFF
BARWELL ROAD
KIRBY MALLORY
LEICESTERSHIRE**

November 2022

**SANSOM CLARKE
CHARTERED SURVEYORS**

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5.00 PLANNING BALANCE & CONCLUSION

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1.00 THE PLANNING PROPOSAL

1.01 The planning application seeks an outline planning consent for the proposed erection of up to 7 dwellings (3 Self-Build/Custom Build Dwellings and 4 Market Dwellings) with all matters reserved on a small enclosed 0.5ha area parcel of land located to the east off Barwell Road in the Leicestershire village of Kirby Mallory.

1.02 The application site abuts the defined limits to development and the suburban fringe of Kirby Mallory with established high mature field boundary hedgerows framing the application site boundaries.

1.03 The application site comprises of part of a single larger field of relatively flat open land that has historically been utilised for horse grazing. The site is defined to the west by Barwell Road, to the south by open agricultural land and to the north by the settlement boundary by the existing urban residential development

1.04 The site topography is relatively flat, gently rising from the southern boundary up towards the northern boundary.

1.05 The application site currently benefits from an existing vehicle and pedestrian access providing ingress/egress with Barwell Road.

2.00 SITE PLANNING HISTORY

2.01 Includes:-

- | | |
|------------------------------------|--|
| P/App.Ref.No:05/00828/FUL | - Permanent Retention of Stables and Wagon Shelter.(Withdrawn) |
| P/App Ref.No: 00/00175/TEMP | - Retention of Stables and Wagon Shelter. (Permitted) |
| P/App.Ref.No: 97/00042/FUL | - Retention of Stables and Wagon Shelter and Erection of Lean-To Extension. (Permitted) |
| P/App.Ref.No:93/00700/4 | - Erection of Stables.(Permitted) |
| P/App Ref.No:80/01119/4 | - Residential.(Refused) |
| P/App.Ref.No:80/01118/4 | - Residential (Refused) |

3.00 RELEVANT PLANNING POLICIES

3.01 Core Strategy (2009)

Policy 7: Key Rural Areas

Policy 15: Affordable Housing

Policy 16: Housing Design, Density, Mix and Design

Policy 19: Green Space and Play Provision

Policy 20: Green Infrastructure

3.02 Site Allocations and Development Policies DPD (2016) (SADMP)

Policy DM1: Presumption in Favour of Development

Policy DM3: Infrastructure and Delivery

Policy DM4: Safeguarding the Countryside - Settlement Separation

Policy DM6: Enhancement of Biodiversity and Geological Interest

Policy DM7: Preventing Pollution and Flooding

Policy DM10: Development and Design

Policy DM17: Highways and Transportation

Policy DM18: Vehicle Parking Standards

3.03 Other Relevant Guidance

Good Design Guide (2020)

Landscape Character Assessment (2017)

Landscape Sensitivity Assessment (2017)

Open Space and Recreation Study (2016)

Housing Need Study (2019)

Affordable Housing (2011)

Leicestershire Highways Design Guide

3.04 The National Planning Policy Framework

Paragraphs 7,8 &9	Achieving Sustainable Development
Paragraph 11	Presumption in Favour of Sustainable Development
Paragraph 3	Preparing and Reviewing Plans
Paragraphs 38 & 47	Decision Making
Paragraphs 54 & 55	Planning Conditions and Obligations
Paragraph 59	Delivering Sufficient Supply of Homes
Paragraph 68	Identifying Land for Homes

Paragraph 78	Rural Homes
Paragraphs 105 & 109	Promoting Sustainable Transport
Paragraphs 117 & 118	Making Effective Use of Land
Paragraphs 124 & 127	Achieving Well Designed Places
Paragraph 63	Meeting the Challenge of Climate Change Flooding & Coastal Changes
Paragraphs 170,178,179 & 180	Conservation & Enhancing The Natural Environment

4.00 THE PRINCIPLE of DEVELOPMENT

4.01 The National Planning Policy Framework (2021) paragraph 68 requires *“strategic policy-making authorities”* to have *“a clear economic understanding of the land available in the area through the preparation of a Strategic Housing Land Availability Assessment”*.

4.02 NPPF (2021) paragraph 82 requires planning policies to *“set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, set criteria or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period”*

4.03 The National Planning Practice Guidance on Housing and Economic Land Availability Assessment provides detailed guidance on how a SHELAA should be undertaken and sets a methodology for how sites should be identified and assessed.

4.04 The principle role of the SHELAA is to:

- identify sites and broad locations with potential for development
- assess their development potential and
- assess their suitability for development and the likelihood of development coming forward (the availability and achievability)

4.05 The subject planning application site was assessed for inclusion in the HBBC's call for sites SHELAA (2018) and the call for sites (2020) under:

Stage 1: Identification of Sites and Broad Locations:

- sites in and adjoining villages or rural settlements and rural exception sites
- potential urban extensions and new free standing development and
- capable of delivering five or more dwellings (500M² of floor space) and/or above 0.25ha

The assessment procedure considered no noted "*Red Constraints*":-

- Functional Floodplain
- Scheduled Monuments
- Internationally and Nationally designated Sites of Biodiversity and Geological Interest and
- Major Hazardous Facilities

Stage 2: Site and Broad Location Assessment

- Suitability
- Availability
- Achievability (inc.viability)

including:-

- Site size, boundaries and location
- Current land use and surrounding area/character
- Land, soil and water quality
- Environmental constraints
- Topographical constraints
- **Accessibility constraints**
- Planning policy considerations

4.06 The subject application is included within the HBBC (2018) and (2020) SHELAA under Reference No:AS461 - having been properly assessed and recognised as being suitable, available and developable without constraints for up to 27 dwellings (2018) and 31 dwellings (2020) respectively.

4.07 The recent Sketchley Lane Inspectorate planning appeal - (APP/K2420/W/20/3260227) indicated that Hinckley and Bosworth Borough Council could only demonstrate a 4.23 year housing land supply therefore the Council are unable to demonstrate the requisite minimum 5 year housing land supply.

4.08 HBBC housing policies are considered to be *out-of-date* and therefore NPPF (2021) Paragraph 11 (d) is triggered where planning permission should be granted *"unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole"*.

4.09 In the absence of the requisite minimum 5 year housing land supply plus a 20% , the *"tilted"* balance of NPPF (2021) Paragraph 11(d) is engaged as the supply is a direct genus from the age of the Development Plan and the out-of-date evidence base it relies upon.

4.10 The Council's shortfall in quantum of housing deliveries are further negatively compounded by Leicester City figure of 2992 of additional dwellings to be provided by HBBC (SoCG).

THE DEVELOPMENT PLAN AND FRAMEWORK POLICIES

4.11 Paragraph 2 of the NPPF (2021) states that *"planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the Development Plan and is a material consideration in planning decisions"*.

4.12 Paragraph 12 of the NPPF (2021) states that *"the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision-making"*. and Paragraph 11 of the NPPF (2021) and Policy DM1 of the adopted Site Allocation and Development Management Policies Development Plan Document (SADMP) (DPD) (2016) set out a presumption in favour of sustainable development and states that development proposals that accord with the Development Plan should be approved unless other material considerations indicate otherwise.

4.13 The Development Plan consists of the Adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (DPD) (2016).

4.14 The Council are unable to demonstrate the requisite minimum 5 year housing land supply (being able to only demonstrate a 4.23 year housing land supply) and therefore the "tilted" balance paragraph 11 (d) of the NPPF (2021) is triggered and with new settlement boundaries not confirmed until the publication of the new Local Plan, this is to be weighed in the balance of the merits of the planning application when considered with the policies of the adopted SADMP (DPD) (2016) and the adopted CS (2009) which attract significant weight given they are considered to be consistent with the Framework and therefore, sustainable development should be approved unless other material considerations indicate otherwise.

4.15 The application site is positioned adjacent to the existing suburban settlement boundary but is recognized that it lies within in countryside as identified in the current Borough Wide Policies Map.

4.16 Policy DM4 of the adopted SADMP (DPD) (2016) is applicable and which seeks to protect the intrinsic value, beauty and open character and landscape character through safeguarding the countryside from unsustainable development.

4.17 It is considered that the planning submission is compliant with Policy DM4 SADMP (DPD) (2016) in so far that:-

i) it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, and

ii)it does not undermine the physical and perceived separation and open character between settlements, and

iii)it does not create or exacerbate ribbon development,

iv) the application site is not within a Green Wedge and

v) the application site it is not within the National Forest.

4.18 The planning application seeks the introduction of residential development in countryside which may be considered to result in harm and would necessitate assessment of the contribution to the local economy with mitigation to be weighed in the overall planning balance.

4.19 In this instance - given that Paragraph 11(d) of the NPPF (2021) applies - Paragraph 14 NPPF (2021) may be considered, however criterion (a) and (b) are non-applicable - therefore Paragraph 11(d) NPPF (2021) remains engaged.

4.20 The residential proposal for an application site located outside the defined limits to development and within countryside is contrary to:

- adopted CS Policy 7
- adopted CS Policy 8
- adopted Policy DM 4 SADMP (DPD (2016))

4.21 The application therefore conflicts with the spatial policies of the Development Plan, however Paragraph 11(d) of the NPPF (2021) is engaged and therefore a *"tilted"* balance assessment is to be made, accounting for all material considerations and identifying any resultant harm.

IMPACT ON THE CHARACTER & APPEARANCE of THE AREA

4.22 The application site of circa 0.50ha in area is located adjacent to the existing settlement's southern boundary and is bounded to the west by the tarmac roads of Barwell Road and to the south by open farmland; the site is influenced by the adjacent residential dwellings and domestic garages abutting the northern boundary.

4.23 The application site does not fall into any defined character area designations and is not in/or adjacent to a Conservation Area, is not Green Belt, a Green Local Space nor an ANOB or a National Park, does not contain/is not located adjacent to a Listed Building / Scheduled Monument, nor is the site listed as a SSSI.

4.24 The site contains no features either nationally nor locally designated as notable and its landscape value is considered Low at a localized site-specific level.

4.25 The application site is framed and enclosed by extensive and established mature high hedgerows field boundaries (inc. self-set trees) which assist in creating structure and pattern to the existing landscape; this same screening landscape feature is proposed to be retained and enhanced to assist in mitigation and containment of any perceived visual harm generated from the modest residential development proposal for up to seven dwelling houses

4.26 It is considered that the proposed development would not result in significant adverse landscape and visual effects over the long term with mitigation measures secured via an appropriately worded imposed planning condition(s) on any consent granted and - at a potential future reserved matters planning application stage - to control and secure an appropriate layout, scale and height of the proposed dwellings together with the retention and enhancement of the important established field boundary hedgerows to ensure that the development would have a site-wide, localised Permanent Minor Adverse effect upon the landscape character of the site; at a larger scale it is considered that the proposed development would have a negligible landscape effect due to the containment of the site and its relationship with the existing strong suburban fringe influence adjacent to the site and would not result in an incongruous feature in the area given the existing visual built-form backdrop and the said retained existing field boundary hedgerows.

4.27 At a future Reserved Matters stage the erection of a new 1.200m high soft wood post and rail fence reinforced with a Blackthorn/Quickthorn hedgerow mix to the application site's eastern boundary together with the introduction of new native specimen tree planting throughout the site and the potential for well-vegetated front gardens to the proposed focal dwellings fronting west onto Barwell Road would assist in mitigating the effects on transient highway users with the Magnitude of Change at the Occupation Phase of the proposal, considered to be a Permanent Minor Adverse effect on the landscape.

4.28 The identified protected buildings of The Church of All Saints GII* (C14/15 inc. C18 alterations) and Holy Trees GII are screened by intervening built-form and vegetation therefore there is no inter-visibility between the application site and the designated heritage assets;

nor is there any known key historic, functional or other relevant relationships between the application site and the known heritage assets.

4.29 The proposal would extend the built-form beyond the defined existing settlement boundaries and it is considered that the Magnitude of Change during the Construction Phase of the proposal would result in a Short Term Moderate - High Adverse effect on the landscape.

4.30 Future new tree planting, boundary hedgerow and tree enhancements with small dedicated amenity grass land /wild flower fringe planting areas will give rise to mitigate for any perceived localised Minor Adverse effect(s) up on the character of the site on completion of the development proposal.

4.31 Reserved Matters stage mitigation measures to minimise the harm include:

- retention and enhancement of the existing established mature high hedgerows,
- new high quality native tree specimen tree planting,
- new high quality hedgerow planting to the application site's eastern boundary and ..
- controlled finished ridge heights to dwelling houses abutting the application site northern boundary.

APPEARANCE, LANDSCAPING, LAYOUT AND SCALE

4.32 The outline planning application seeks consent for the erection of up to 7 dwelling houses with all matter reserved.

4.33 The criterion of Appearance, Landscape, Layout and Scale would be subject to a reserved matters application(s) subsequent to the granting of any planning consent.

4.34 Any grant of a planning consent would attract appropriately worded planning conditions and may be worded:-

"An application(s) for the reserved matters shall be made within 18 months from the date of this permission and the development shall be begun not later than two years from the date of the last of the reserved matters to be approved".

"No development shall be commenced until plans and particulars of "the reserved matters" relating to:-

- *appearance, landscape, layout and scale*

"have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried in accordance with the approved details"

4.35 A Landscape report is submitted as part of the supporting planning submission documentation.

IMPACT upon NEIGHBOURING RESIDENTIAL AMENITY

4.36 The immediate adjacent urban residential development situated abutting the application site's northern boundary - includes large private rear garden amenity areas/dedicated parking /shared garaging.

4.37 In the absence of existing residential dwellings positioned on the eastern, western and southern site boundaries, it is considered that no perceived impacts on residential amenity would be evident.

4.38 It is considered that the development proposal is capable of being delivered without any significant adverse affect on the privacy nor amenity of nearby residents and that the occupiers of the adjacent buildings and the amenity of future occupants of the proposed development would not be adversely affected by activities generated from within the site.

4.39) A Noise Impact Assessment is submitted as part of the supporting planning submission documentation.

4.40 It is considered that the submission proposal is capable of being delivered in compliance with both Policy DM10 of the adopted SADPM (DPD) (2016) and with the Council's Good Design Guide (2020).

4.41 It is considered a future reserved matters application would appropriately demonstrate - through appearance, landscape, layout and scale illustrations/documentation - adequate provision for both the retention of and provision of the requisite residential amenity standards for both the occupants of existing residential dwellings and the future occupants of the proposed new dwellings.

IMPACT upon HIGHWAYS SAFETY

4.42 The application proposal is an outline planning application with all matters reserved.

4.43 The ranges of services and facilities within walking distance in Kirby Mallory include a shop, a restaurant, a place of worship, a meeting hall, a recreational play area, leisure and tourism attractions and numerous small/medium scale employment opportunities.

4.44 The application site currently benefits from an existing vehicle and pedestrian access arrangement with Barwell Road (unclassified roadway - intended for local traffic) within a designated 30mph zone and supports an established equine use incorporating stabling and grazing paddocks.

4.45 A future new vehicle access would to be formed with suitable geometry in compliance with current LHA and LHDG current standards/guidance in construction specification, vertical alignment, radii, width and forward visibility splays; the proposed new access arrangement - subject to LHA consultation advice - may/may not require the relocation of the existing 30mph national speed limit (NSL) zone to the south of the new proposed access position to support a suitable and safe vehicle access for the development to serve up to 7 dwelling houses.

4.46 Vehicle parking and turning standards will be provided in compliance with current LHDG standards/guidance.

4.47 The opportunity for cycling (guidance @ 5km distance) and walking (guidance @ 1.5km distance) in lieu of shorter vehicle trips exists given the application site's close proximity to the village core.

4.48 The personal injury collision (PIC) data for Barwell Road indicates two incidents recorded as "*slight*" in severity of injury in 1991 (08.06.99) and 2006 (05.01.06) and one incident recorded as "*slight*" in severity of injury in 2009 (01.10.09) at the Church Road/Shilton Road junction - within the past twenty years and within 250.00M from the existing/proposed site access.

4.49 Traffic movement forecast for the proposed development for 7 dwellinghouses may possibly/probably generate a result in Peak Period Vehicle Trips of:

PEAK PERIOD	TRIP RATE		TRIPS (x7)	
	IN	OUT	IN	OUT
8.00AM - 9.00AM	1	2	7	14
5.00AM - 6.00PM	2	1	14	7

IMPACT upon ECOLOGY

4.50 The presence of protected species is a material consideration in the assessment of a planning submission and it is essential that the presence - or otherwise - of protected species (and to what extent they may/may not be effected by the planning proposal) is established prior to any granting of a planning consent.

4.51 The established mature high hedgerow field boundaries are to be retained (enhanced as required) and at a future Reserved Matters stage the introduction of dedicated located sourced specimen native tree planting and dedicated small amenity areas/wild flower areas may be considered suitably appropriate.

4.52 It is considered that the development proposal is compliant with Policy DM6 of the adopted SADMP (DPD) (2016) and accords with Paragraph 179 of the NPPF (2021).

4.53 As noted by Morph Ecological Consultants (04.01.23), the application site exhibits '*no evidence of protected species*' and the majority of the survey area has '*lower value habitats*'.

FLOODRISK & DRAINAGE

4.54 The application site is identified as being entirely located within the EA's designated Flood Zone 1 where residential development is considered compatible with reference to the PPG flood risk vulnerability table.

4.55 The application site encompasses an area circa 0.50ha.

4.56 It is considered that the planning submission proposal is compliant with DM6 of the SADMP (2016) and accords with paragraphs 159 and 169 of the NPPF (2021).

5.00 PLANNING BALANCE AND CONCLUSION

5.01 The Council cannot demonstrate a minimum 5 year housing land supply and the housing policies in both the adopted SADMP (DPD) (2016) and the adopted Core Strategy (2009) are considered to be out of date as they focused on delivery of a lower housing requirement than now required with the HBBC's current land supply position worsened post the Sketchley Lane appeal decision (APP/K2420/W/20/3260227), where some large sites were discounted from the housing delivery trajectory resulting in the Council only be able to demonstrate a 4.23 year housing land supply.

5.02 It is considered that the *"tilted"* balance in Paragraph 11(d) of the NPPF (2021) applies where for Decision-Taking, the granting of permission - *"unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies within the Framework taken as a whole"* - should be made for sustainable development.

5.03 It is acknowledged that the planning proposal would be in conflict with the adopted Core Strategy Policies 7 and 11 and with Policy DM4 of the adopted SADMP (DPD) (2016). These same policies are consistent with the Framework and are therefore accorded significant weight in the overall planning assessment.

5.04 The planning proposal seeks the consent for the erection of up to 7 dwellings on land located outside - but adjacent to the defined settlement boundary of Kirby Mallory.

5.05 The planning proposal would result in the loss of grade 3(b) agricultural land that has been under permanent horse grazing for in excess of 10 years and it is considered that the this loss of agricultural land would only have Light to Moderate weight in the overall assessment of the planning balance.

5.06 The Government is continually committed to the objective of significantly boosting the supply of housing through the policies and guidance promoted within successive National Planning Policy Framework publications (2012/2018/2019) - including the current NPPF (2021) in Paragraph 60 *"Delivering a sufficient supply of homes"*.

5.07 In the National Planning Policy Framework (2021) , Paragraph 11 states that for decision-taking , where the policies which are most important for determining the application are out-of-date, granting permission unless *.." any adverse impacts of doing so would significantly and demonstrably outweigh the benefits"* and therefore the three overarching interdependent objectives of the strands economic, social and environmental sustainability criterion stand to be assessed.

5.08 The planning proposal would result in Moderate to High *economic* positive benefits in Boosting the Local (micro/macro) Economy in the construction phases through to the occupation of the development and with on-going economic benefits post completion with the Buying and Selling of the new properties, Financial Contributions for Associated Infrastructure and Council Revenues through the council tax payments generated and the New Homes Bonus for (upto) 7 new dwellings.

5.09 The development proposal for seven dwellinghouses would support and maintain local community services & non-retail services of Kirby Mallory, Peckleton and Stapleton result in a Moderate to High *social* positive benefits to the area.

5.10 The planning proposal would result in Moderate *environmental* positive benefits with the High Quality Sustainable Design ,the Retention and Enhancement of the Existing Landscape Features, with no Floodrisk and the introduction of SUDS.

5.11 The planning proposal would be in conflict with the adopted Core Strategy (2009) Policies 7 and 11 and Policy DM4 of the adopted SADMP (PDP)(2016) with the these same policies attracting significant weight being consistent with the Framework (2021).

5.12 It is recognised that the planning proposal would result in a Moderate - High Adverse effect to the character and appearance of the area during the Construction Phase however this impact would be temporary and would reduce to a Permanent Minor Adverse effect in year 1-2 of the Occupation Phase of the development proposal.

5.13 It is considered that on balance this level of harm does not significantly and demonstrably outweigh the identified benefits of the submission scheme proposal when assessed against the Framework (2021) as a whole.

5.14 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70 (2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

5.15 The Council currently cannot demonstrate the requisite minimum 5 year housing land supply and the adopted Core Strategy (2009) and the adopted SADPM (DPD) (2016) are considered *out-of-date* as they focused on delivery of a lower housing requirement than now required and therefore the “*tilted*” balance in Paragraph 11(d) of the NPPF (2021) is engaged and applies where planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework (2021) taken as a whole.

5.16 Notwithstanding that the provision of 7 additional dwelling houses would not significantly boost the housing supply in the Borough, the economic and social benefits would be beneficial for the area with no identified significant adverse impacts from the development arising from the development proposal.

5.17 It is considered that subject to appropriately worded planning conditions the planning proposal would not have any significant adverse effects upon residential amenity, flooding and drainage, ...

vehicle or pedestrian safety, ecology and is in accordance with policies 15,16 and 19 of the adopted Core Strategy (2009) and Policies DM1,DM6,DM7, DM10, DM17 and DM18 of the adopted SADMP (DPD) (2016).

5.18 It is therefore considered that the *"presumption in favour of sustainable development"* does apply in this case and *"the proposal is considered to be sustainable development"* and in accordance with Policies DM1,DM4,DM6,DM10,DM11,DM12,DM14,DM17and DM18 of the adopted SADPM (2016) AND the overarching principles of the NPPF (2021) and with substantive material considerations outweighing any conflict with some elements of the adopted Development Plan - it is respectfully requested that planning consent be granted subject appropriate imposed planning conditions.

SANSOM CLARKE
CHARTERED SURVEYORS

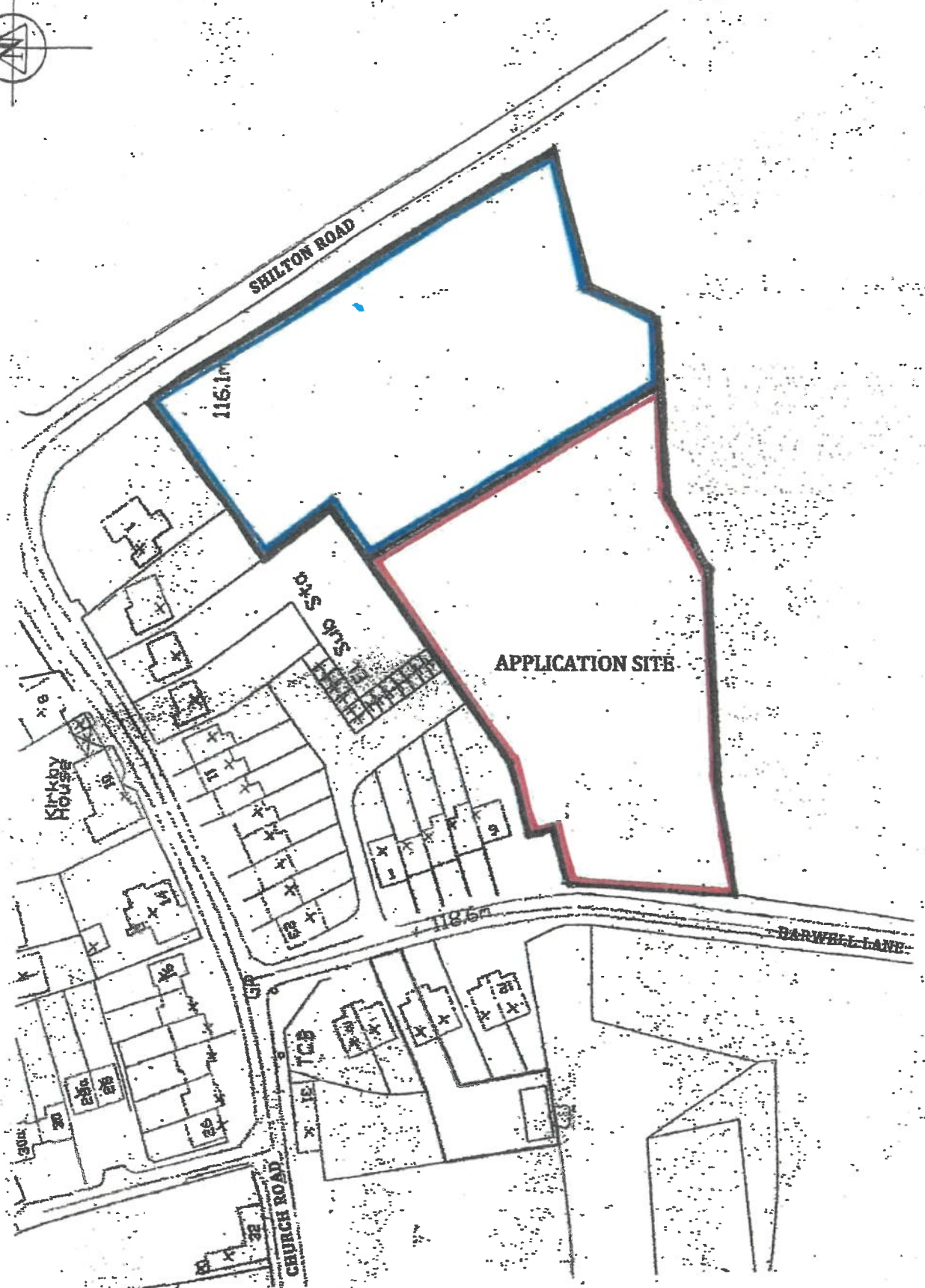
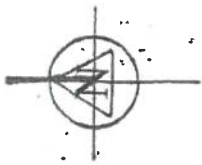
6.00 APPENDICES

6.01 Location Plan.

6.02 Self Build/Custom Build Data.

6.03 S106

SC



LOCATION PLAN 1:1250

SANSOM CLARKE
CHARTERED SURVEYORS

SCALE: 1:1250 @ A4 11/22

HBBC Self-Build/Custom Build Data

Headline Demand Data: (Last updated: 23/06/2023)

- Number of Individuals on the Register: 40
- Number of Individuals Without an Existing Plot: 34
- Number of Detached Dwellings Sought: 38
- Number of Serviced Plots Sought in Rural Areas: 18

Latest Monitoring Position: (Last updated: 23/06/2023)

April 2016 - Oct 2018

- Number of Individuals on the Register: 1
- Cumulative Permissions Granted: 0

Oct 2018 - Oct 2022

- Number of Individuals on the Register: 15
- Cumulative Permissions Granted: 9

Date:

2023

NAMED APPLICANT

AND

HINCKLEY & BOSWORTH BOROUGH COUNCIL

AGREEMENT

Given under Section 106 of the Town and Country Planning Act 1990 (amended)

Relating to the Proposed Development at Land off Barwell Road,
Kirby Mallory, Leicestershire. LE9 7QA

Planning Application Ref.No:S106

DRAFT S106

**SIGNED as a DEED by
NAMED APPLICANT
In the presence of:**

Witness:

Signature:

Name:

Address:

DRAFT S1O6

THIS AGREEMENT is dated

2023

PARTIES

1 NAMED APPLICANT (Address to be confirmed)

TO

2 HINCKLEY AND BOSWORTH BOROUGH COUNCIL of the
Hinckley Hub, Rugby Way, Hinckley, Leicestershire. LE10 OFR.
(the Council)

1 DEFINITIONS

In this undertaking the following expressions shall have the following meanings (except where the contract otherwise requires)

“the 1990 Act” - means the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).

“the 2011 Act” - means the Localism Act 2011.

“Application” - means the planning application for submission for the Development proposal as validated and registered by the Council.

“Commencement of Development” - means the date of commencement on which any material operation forming part of the permitted Development as defined within the meaning of Section 56(4) of the 1990 Act being carried out, other than (for the purpose of this Agreement and for no other purpose) operations consisting of site clearance, demolition, archaeological investigation, investigation for the purposes of assessing contamination, remedial action in respect of any contamination, erection of a means of temporary enclosure for the purposes of site security and the display of site notices or advertisements and reference to “Commencement of Development” and all cognate expressions shall be construed accordingly.

“Completion” - means to be used for it's intended use as detailed within the Planning Permission.

“Development” - means the development of the Site by the Owner in accordance of with the Planning Permission as set out in the Application.

“Dwelling” - means the dwellinghouse to be constructed as part of the Development on the Site including any structure or other structure which may be attached or integral forming part of the Planning Permission other than any ancillary building or structure not attached to the dwellinghouse.

“Family” - means spouses, children, step-children, grandchildren, parents, grandparents, brothers or sisters or half brothers or sisters together with persons with whom they would normally reside to include but not be restricted to spouses children or partner.

“Occupation” and “Occupied” - means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.

“Obligations” - means the covenants, restrictions and planning obligations contained within this Agreement and within First Schedule annexed hereto.

“Land Title” - means the land as registered on the Land Registry and the Land Title relating to the land (or a part parcel of land thereof) benefiting from Planning Permission for the Development.

“Plan” - means the plan in the Second Schedule annexed hereto.

“Planning Permission” - means the planning permission (subject to planning conditions as applicable) granted by the Council pursuant to the Application.

“Site” - means the site as defined and referred to in the Planning Permission.

“Self-Build” - means the building or completion by a) individual(s) b) associations of individuals or c) persons working with or for individuals or associations of individuals of dwellinghouses to be occupied as homes by those individuals in accordance with the requirements of the Self Build and Custom Housebuilding Act 2015 (the Act).

“Occupation Notice” - means the notice in writing to be served upon the Council by the Owner formally notifying the Council of the Owner’s intention to Occupy the Dwelling in accordance with the occupation notice in Third Schedule annexed hereto.

“VAT” - means value added tax chargeable under the Value Added Tax Act 1994.

“Working Days” - means any day except Saturday, Sunday, a bank holiday or a public holiday in England and Wales.

2 CONSTRUCTION of this AGREEMENT

2.1 Where reference is made to any clause, paragraph, schedule or recital that reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Agreement.

2.2 Words importing the singular meaning where the context allows include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual people include companies, corporations and firms and all such words shall be interpreted interchangeably in that way.

2.4 Where more than one person is obliged to observe or perform an obligation, the obligation can be enforced against all of them jointly and against them individually.

2.5 Any reference to an Act of Parliament includes any modification, extension or re-enactment of that Act for the time being in force and includes all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under the Act or deriving validly from it.

2.6 Reference to any party in this Agreement shall include the successors in title to that party and to any deriving title through or under that party, and references to any local authority shall include the successors to its various statutory functions.

3 LEGAL BASIS

3.1 This Agreement is made as a Deed under S106 of the 1990 Act.

3.2 The obligations imposed upon the Owner under this Agreement create planning obligations under S106 of the 1990 Act and are enforceable by the Council as the local planning authority.

4 CONDITIONALITY

4.1 This Agreement is conditional upon:-

- (i) the granting of Planning Permission and
- (ii) the Commencement of Development

except for Clauses 6.1, 11 and 12 which shall come into effect immediately upon completion of this Agreement.

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council to observe and perform the Obligations.

6 MISCELLANEOUS

6.1 Upon completion of this Agreement, the Owner shall pay the fair and reasonable legal costs of the Council incurred in the signing of this Agreement; these said costs are to be jointly agreed prior to the signing of this same Agreement.

6.2 No provision in this Agreement is intended to or will operate to confer any benefit under the Contracts (Rights of Third parties) Act 1999 on a person who is not named as a party to this Agreement, except that the application of that Act shall not prevent all or any of the future successors in title or to the statutory functions of any of the parties to this Agreement from being able to benefit from or to enforce any of the Obligations.

6.3 This Agreement shall be registered as a local land charge by the Council and shall be registered on the Charges Register of the Land Title relating to the Site under the approved Planning Permission by the Owner on each disposal who will provide Office Copies to the Council as evidence of registration.

6.4 Where the agreement, approval, consent or expression of satisfaction is required by one party from another party under the terms of this Agreement, such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

6.5 Any such agreement, approval, consent or expression of satisfaction shall unless otherwise stated in this Agreement be given on behalf of the Council by an authorised appointed proper officer of the Council.

6.6 Any notices shall be deemed to have been properly served if sent to the principal address or registered office (as appropriate) of the relevant party by recorded postal service.

6.7 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid, illegal, or unenforceable, then such invalidity, illegality or enforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

6.8 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

6.9 No person shall be liable for any breach of any of the Obligations after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.10 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

7 WAIVER

7.1 No waiver (whether express or implied) by any party to this Agreement of any breach or default in preforming or observing any provisions of this Agreement by any other party shall constitute a continuing waiver, and no such waiver shall prevent the party granting it (or implied to have done so) from enforcing any of the relevant provisions or from acting upon any subsequent breach or default.

8.00 VAT

8.1 All sums payable under this Agreement shall be deemed to be exclusive of Value Added Tax where applicable, and except where otherwise stated, the party liable to make the payment shall also be liable to pay any Value Added Tax due.

9 JURISDICTION

9.1 This Agreement is governed by and interpreted in accordance with the law of England and Wales; and the County Court in whose district the Site is situated shall have full jurisdiction to hear and determine proceedings arising from or relating to this Agreement or for the enforcement of it's terms or any of them.

10.00 DELIVERY

10.1 The provision of this Agreement (other than this clause which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS of which the parties have executed this document as a deed on the date hereof.

FIRST SCHEDULE

Owner's covenants

The Owners covenant and agree:-

1 Commencement of Development

1.1 Not to Commence Development until Notice has been served upon the Council in the form as contained within Appendix 3 to this Agreement addressed to the Head of Development Control confirming the date of Commencement of Occupation.

2 Construction of Development

2.1 To construct or procure the construction of the Development as a Self-Build only.

3 Occupation of the Dwelling

3.1 To use or Occupy the Dwelling as their sole or principal residence unless otherwise sold or let in accordance with paragraph 4 of this Schedule.

4 Sale or Letting by the Owner

4.1 Not to let the Dwelling (or offer so to do) to persons other than Family.

4.2 The Development for the Self-Build Dwelling will be occupied only by the Owners and their Family for a period of three years from the date as specified in the Occupation Notice.

4.3 Pursuant to the period of three years of occupation after completion of the Development , thereafter the restriction in this clause shall cease to have effect to use or Occupy the Dwelling as their sole or principal residence.

SECOND SCHEDULE

The Plan

THIRD SCHEDULE

Form of Occupation Notice

OCCUPATION NOTICE

Notice to the Head of Development Control of Commencement of Development

Planning Permission Reference No:

Development Site Address:

Description of the Development:

Date of the signed Section 106 Agreement:

Notice is hereby given to the Council that the Occupation of the approved Self-Build Dwelling shall Commence on - Date:

Name:

Signed:
(for and on behalf of the Owner)

Address:

Date:

Contact telephone number:

Contact email address:

golby+luck ::
landscape architects

Land at Barwell Lane, Kirkby Mallory

Landscape Report

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Client: Mr J Lawrence



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1 INTRODUCTION

1.1 This landscape report has been carried out by Golby + Luck Landscape Architects following instruction by Mr J Lawrence to consider the development of up to seven dwellings and garages at land to the east of Barwell Lane, Kirkby Mallory, Leicestershire; see **GL2153 01**.

1.2 This application comprises the resubmission of planning application 22/01181/OUT that was refused under delegated powers on the 9th February 2023 stating two reasons for refusal (RfR). This report takes into consideration the first RfR that states:

“The application represents unsustainable development in the countryside outside the settlement boundary of Kirkby Mallory and would have a significantly detrimental impact on the intrinsic value, beauty and open character of this countryside location. In the absence of a five year housing supply, paragraph 11 of the NPPF is engaged. However, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The proposal is contrary to Policy 13 of the Core Strategy (2009) and Policies DM1 and DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016).”

1.3 This report considers the nature of the landscape associated with the site and its local setting, more specifically it's in intrinsic value and perceived beauty and the degree to which the development proposed would be at odds with the baseline setting at this edge of settlement location. The test set out in the RfR is that the proposal will result in significant harm. There is no measure of harm set out in the RfR, but it is acceptable to assume that significant harm must be a level which would not normally be expected or typically associated with a housing development of this nature; and/or the development would result in the loss of a particularly important landscape/ feature or impact a landscape of notable scenic quality. Such landscapes would be those classified beyond typical with features central to defining the local setting of character.

1.4 This report considers the following issues:

- the landscape and visual baseline of the site;
- the development proposal;
- the likely effect of the proposal on the character and appearance of the local landscape setting.

1.5 The report also includes a series of representative views taken from the public highway and rights of way taken on June 2023 with full leaf cover on a clear day with good visibility.



Judgements are made in respect to seasonal variation and increased visibility in winter months with limited leaf cover and possible increased visibility of the site.

1.6 The following information has been considered in the preparation of this summary report:

- Ministry of Housing Communities & Local Government – National Planning Policy Framework 2021 (the NPPF);
- Hinkley & Bosworth Borough Council – Local Development Framework Core Strategy adopted December 2009 (the HBCS);
- Hinkley & Bosworth Borough Council – Local Plan 2006-2026 Site Allocations and Development Management Policies DPD adopted July 2016 (the HBDPD);
- Natural England National Character Area Profiles 2014 – National Character Area Profile 94: Leicestershire Vales (NCA94);
- Hinkley & Bosworth Borough Council – Landscape Character Assessment 2017 (the HBLCA), and more specifically Landscape Character Area D Newbold and Desford Rolling Farmland (LCA-D);
- Historic England National Heritage List;
- DEFRA Magic environmental data base; and
- Ordnance Survey Mapping - Promap.



2 SITE CONTEXT AND LOCATION

- 2.1 The site comprises part of a single field maintained as permanent grassland with an existing small shed located at the south-west boundary with associated access from Barwell lane and hardstanding; see **GL2153 01**.
- 2.2 The site is bound to the west by an existing native hedgerow and tree cover with Barwell Lane beyond. To the south the site is bound by a native hedgerow with tree cover and an open setting of arable farmland beyond. To the north the site is bound by the existing settlement edge of Kirkby Mallory that is defined by the garden boundaries of parking area of the properties fronting Barwell Lane, and the gardens of the properties fronting Church Road to the north. To the east the boundary of the site is undefined cutting across the existing field between the garden boundary to the north and field boundary to the south.
- 2.3 Kirkby Mallory is located approximately 2.5km to the north of Barwell and 3km to the south of Newbold Verdon, Desford and the Caterpillar site are located approximately 3km to the north-east, and Stapleton approximately 2.5km to the south-west. The settlement has evolved from what was a hamlet located at the north-east boundary of the former Kirkby Park that has since been redeveloped as the Mallory Park racing circuit.
- 2.4 The historic settlement comprised a sporadic more granular "wayside" character with properties clustered around Church Road and Main Street. The Church of All Saints and Rectory sat at the eastern edge of the former park with Church Spinney extending south alongside Barwell Lane before heading west along the southern boundary of the park connecting with Kirkby Wood to the west.
- 2.5 The modern settlement has seen residential expansion to the north of Main Street and east of Newbold Road, between Main Street and Church Road to the east of the playing fields, to the east of Main Street and north of Peckleton Road, and south of Church Road between Barwell Lane and Shilton Road. The majority of this expansion comprises modern residential development of various styles that generally reflect the building era. This has resulted in the creation of a relatively compact settlement pattern, with a small extension to the north along Newbold Road.
- 2.6 In terms of land use, the site and surrounding landscape comprises farmland that is predominantly maintained under arable production with small pockets of permanent pasture for grazing. The field pattern is of a medium to large scale and broadly geometric in shape. A more irregular pattern exists in and around the more complex valley setting of the local watercourses to the north associated with the catchment of Thurlaston Brook.



- 2.7 To the west of Kirkby Mallory is the Mallory Park racing circuit that comprises a complex of buildings and parking accessed from Stapleton Lane, and the tarmac racing circuit and service areas. In the centre of the track is a lake and smaller pond to the north that appear to have been created as part of the track complex. There was historically a chain of ponds crossing Kirkby Park but these were linear in format extending between the hall located at the north-east corner of the park and Kirkby Wood at the south-west edge. There is some remanence of the former fishponds at the northern boundary of the racing circuit alongside Stapleton Lane, but the ornamental ponds with connecting weirs have been lost.
- 2.8 In terms of vegetation cover, the surrounding setting of farmland is defined by the typical network of native hedgerows predominantly made up of Hawthorn, and intermittent hedgerow tree cover that generally comprises Oak and Ash. The former parkland setting and structure and tree and woodland cover at Mallory Park remains, comprising linear tree belts and mature parkland trees in the more immediate setting of the former Kirkby Hall (replaced by the main buildings at the racing circuit). This setting secures a more wooded appearance to the western edge of the settlement, notably the setting of Barwell Lane to the west of the site.
- 2.9 The site is defined by native hedgerows to the south and west with intermittent tree cover. There is a single mature Sycamore tree at the Barwell Lane boundary and a larger mature fruit tree (appears to be Plum) within the site located just to the north of the existing shed.
- 2.10 In terms of landform, the site sits between 115m above ordnance datum (AOD) and 120m AOD at the southern edge of the settlement; see **GL2153 03**. The wider settlement extends north to approximately 125m AOD. The wider landscape setting is rolling in character typical of the Leicestershire Vales. The landform continues to rise to the north of the settlement to approximately 130m AOD at Green Spinney and falls to the south to approximately 85m AOD in the context of localised valley setting that extends between Brooklands Farm to the west and the northern fringes of Earl Shilton to the east.
- 2.11 In terms of access and recreation, the site is maintained as private land and does not provide any access or recreation function. There is a relatively restricted network of public rights of way local to the site that provide access from the settlement the surrounding setting of farmland. Notable footpaths include T85 to the south of the site, T76 to the south-west crossing Mallory Park, the collection of footpaths to the north crossing the recreation ground within the settlement (T81, T83 and T84), and the footpath extending north from the settlement (T81, T82 and S23); see **GL2153 01**.

- 2.12 In terms of designation, the site is not covered by any landscape, heritage or nature conservation designations that would suggest an increased value or sensitivity to change. The site is also not covered by any statutory or non-statutory designation that would prohibit its development; see **GL2153 02**.
- 2.13 The most notable heritage asset in the Grade II* Church of All Saints approximately 180m to the south-west of the site. The Lovelace Memorial to the south of the church is a Grade II Listed Building. To the west of the site the former stables at Kirkby Hall and North Lodge are Grade II Listed Buildings. Within the settlement no.2 Hinckley Road is a Grade I Listed Building.
- 2.14 In terms of planning policy, the site sits adjacent to the defined settlement boundary of Kirkby Mallory (KIRK01), with the site extending south into the wider setting of open countryside where development is controlled by Policy 13 of the HBCS and Policies DM1, DM4 and DM10 of the HBDPD.
- 2.15 Policy 13 of the HBCS is concerned with Rural Hamlets that includes Kirkby Mallory. This policy sets out a number of prescriptions with those relating to the environment being relating to the delivery of green infrastructure, delivery of National Forest planting (the site is not within the National Forest), supporting the Charnwood Regional Park (the site is not within the Charnwood Regional Park), and respect the setting of Conservation Areas (Kirkby Mallory does not have a Conservation Area).
- 2.16 Policy DM1 of the HBDPD is concerned with the engagement of the planning balance in the NPPF and the presumption in favour of sustainable development. Policy DM10 is concerned with Development and Design. Given this application is made in outline these are strictly issues that can and should be dealt with through the submission of a Reserved Matter planning application. Policy DM4 is concerned with the safeguarding of the countryside. This policy sets out in its first-tier criteria a list of development considered acceptable in the countryside, this does not include housing development. The second-tier criteria that includes:
- i. ***"It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and***
 - ii. ***It does not undermine the physical and perceived separation and open character between settlements; and***
 - iii. ***It does not create or exacerbate ribbon development; with Core Strategy Policies 6 and 9; and***

iv. If within a Green Wedge, it protects its role and function in line

v. If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21."

2.17 The site is not located close to another settlement where there is land performing a separation functions, it is not located within one of the designated Green Wedge's, and it is not located within the National Forest. This appraisal will set out the likely landscape and visual effects arising from this proposal and consider them against the criteria of the remaining criteria of this policy.

3 LANDSCAPE & VISUAL BASELINE

Landscape Character

- 3.1 At a national level the site sits within NCA 94 Leicestershire Vales. The summary to NCA 94 states:

"Leicestershire Vales National Character Area (NCA) shares many characteristics with the neighbouring Northamptonshire Vales NCA. The Leicestershire Vales extend between the town of Hinckley in the west to Leicester in the northeast and southwards towards Market Harborough and Lutterworth. This is a large, relatively open, uniform landscape composed of low-lying clay vales interrupted by a range of varied river valleys. Its sense of place comes less from its overall landform and more from its visually dominant settlements and views towards surrounding higher ground. The city of Leicester dominates the northeastern corner of the NCA."

- 3.2 The following key characteristics are identified for NCA 94:

- *An open landscape of gentle clay ridges and valleys underlain by Mercia Mudstone and Lias groups bedrock but with an extensive cover of superficial deposits occasionally giving rise to moderately steep scarp slopes. There is an overall visual uniformity to the landscape and settlement pattern.*
- *Land use characterised by a mixture of pasture and arable agriculture that has developed on the neutral clay soils.*
- *Distinctive river valley of the Soar and Swift, with flat flood plains and gravel terraces together with tributaries including the Sence. Riverside meadows and waterside trees and shrubs are common, along with waterbodies resulting from gravel extraction.*
- *Woodland character derived largely from spinneys and copses on the ridges and the more undulating land and from waterside and hedgerow trees and hedgerows. The density, height and pattern of hedgerows varies throughout.*
- *Diverse levels of tranquillity associated with contrasts between busy urban areas and some deeply rural parts. Large settlements dominate the open character of the landscape. Leicester, Lutterworth, Hinckley and Market Harborough and related infrastructure, including major roads, are often visually dominant.*



- **Frequent small towns and large villages often characterised by red brick buildings and attractive stone buildings in older village centres and eastern towns and villages. Frequent, imposing spired churches are also characteristic, together with fine examples of individual historic buildings.**
- **Rich and varied historic landscape, with the nationally important Bosworth Battlefield near Sutton Cheney, prominent historic parklands and country houses, ridge-and-furrow earthworks and important medieval settlement remains, for example at Wistow Hall, Gumley, Knaptoft and Peatling Magna."**

3.3 The rolling landform formed by clay ridges are present in the landscape associated with the site and settlement, as is the tree/woodland cover derived from spinneys and copses. There is a diverse level of tranquillity driven by the proximity of the site to the settlement and local highways, and the presence of the racing circuit to the west that is a local source of noise disturbance.

3.4 It is important to note that frequent small towns and large villages are part of the character of NCA 94. There is a rich and varied historic landscape within NCA 94, but there are no features identified locally to the site, or Kirkby Mallory except for the remnant parkland setting of Kirkby Hall which is heavily degraded and not designated.

3.5 At a local level the HBLCA identifies the site as being located within LCA-D: Newbold and Desford Rolling Farmland; see **GL2153 04**. The key characteristics of LCA-D are identified as:

- 1) **"Gently rolling landform rising to the north from the lower lying land around the River Soar.**
- 2) **Clustered villages of varying size centred on crossroads.**
- 3) **Predominantly arable farmland with clustered areas of industry and recreational facilities near to the village fringes.**
- 4) **Tree cover is limited, with scattered trees and small linear woodland copses.**
- 5) **Large to medium sized field pattern defined by single species hawthorn hedgerows.**
- 6) **Good network of footpaths link settlements.**
- 7) **Few major roads.**



8) Open views where hedgerows have been removed, giving an impression of a large scale landscape.

9) Electricity pylons and wind turbines are often prominent vertical features in this open landscape."

3.6 These characteristics are broadly consistent with the local landscape setting of the site. Although, there remains a relatively well structure pattern of hedgerow cover that combined with the local setting of landform created a relatively contained setting with limited open views and impression of a large landscape.

3.7 The HBLCA sets out a number of key sensitivities and values relevant to LCA-D:

1) The remaining areas of ridge and furrow which create a sense of historic time depth.

2) The rural settlement pattern of compact and nucleated agricultural settlements connected by a network of rural lanes and minor roads is largely unspoiled. The rural landscape and sense of tranquillity is sensitive to change from further development.

3) Isolated farmsteads interspersed throughout the farmland contribute to the historic rural character and provide continuity to the past.

4) The estate at Mallory Park has strong historic and cultural associations and provides a nationally-popular attraction.

5) Long distance and panoramic views from the elevated land in the north creates a high scenic quality and adds to the visual amenity.

6) Relatively small communities of mesotrophic grassland and deciduous woodland provide valuable habitat in a predominantly agricultural landscape.

7) The areas which provide a rural setting to the settlements are sensitive to changes as a result of new development, as well as views from the wider landscape to church spires."

3.8 Sensitivities 2, 4 and 7 are relevant to the site and local setting of Kirkby Mallory. The settlement retains a relatively compact pattern with the exception of the extension to the north. The estate at Mallory Park is adjacent to the settlement, but it is difficult to see how the development of the site would impact on it special interest that centres on the use of the site for motor racing. The site sits adjacent to the settlement and is currently



undeveloped forming part of the countryside. However, it is a relatively small field that is substantially contained from the wider and more open arable setting to the south. Its contribution in providing a rural setting is somewhat limited, especially given the existing areas of hardstanding and shed.

3.9 The HBLCA continues by setting out a number of landscape strategies:

- 1) ***Conserve historic field patterns where possible, and the agricultural setting to isolated farmsteads.***
- 2) ***Conserve the relatively small-scale villages and ensure any new development contributes positively to the character and built vernacular.***
- 3) ***Conserve and enhance pedestrian access between adjacent villages including the recreational and ecological corridor of Rotherley Brook.***
- 4) ***Conserve Mallory Park and its predominantly rural setting.***
- 5) ***Conserve and enhance the long, panoramic views from higher ground of uncluttered skylines and church spires, and consider the visual impact of vertically prominent elements in any new development.***
- 6) ***Conserve and enhance the biodiversity of the landscape through a mosaic of habitats.***
- 7) ***Identify opportunities for replacement of hedgerows along roadsides and their future management as landscape features***
- 8) ***Promote regeneration and enhancement of tree cover through establishment of linear copses and hedgerow trees within field boundaries and around urbanising influences.***

3.10 Strategy (1) can be secured through the retention and reinforcement of the sites existing boundaries. Strategy (2) can be secured through the considered design of the site. Given the location of the site its development is unlikely to materially alter the pattern of the settlement, and due to the strength of the southern boundary it will be seen and read as a development relating to the settlement rather than an unrestricted encroachment into the wider setting of farmland. Strategy (3) will not be affected. In terms of Strategy (4) there is no physical or visual relationship between the site and Mallory Park and clearly the development of the site will not harm its rural setting. In terms of Strategy (5) there are no long or panoramic views associated with the site. In terms of Strategy (6) the scheme can



secure an enhancement in biodiversity through the reinforcement and creation of new landscape features/habitats (Strategy (7)). In terms of Strategy (8) the scheme can secure new tree planting measures to enhance the landscape setting of the site and southern approach to the settlement.

- 3.11 In terms of landscape value and associated sensitivity, the site comprises part of a relatively small pastoral field at the southern edge of the settlement with an existing informal access, relatively small area of hardstanding and shed. The permanent grassland setting of the site is of limited ecological value, and the boundary hedgerows and tree cover appear to be in relatively poor condition. The site is located at the transition of the modern settlement and wider setting of open arable farmland. As identified in HBLCA the site does not contain or adjoin any key sensitive or valued features of the Newbold and Desford Rolling Farmland, and as identified in this appraisal, it is not covered by any designation that would suggest an increased value or sensitivity to change. The features of the site are common and widespread in the locality, and do not make a significant contribution to the key characteristics of the Leicestershire Vales and Newbold and Desford Rolling Farmland.
- 3.12 The site does not provide the setting to a valued or sensitive feature, and whilst being located at the southern gateway to the settlement is defined by the modern settlement that is of limited value.
- 3.13 In summary, the site and its features are of medium to low value and given its relationship with the settlement and wider setting of farmland is of medium to low susceptibility to the proposed change. The immediate setting of the site and settlement is considered to be of medium to low landscape sensitivity. The wider setting of open arable farmland beyond the settlement and site is considered to be medium landscape sensitivity. There are features of increased sensitivity, such as the Church of All Saints, but its setting is relatively well contained with limited intervisibility between the asset and the site.

Visual Setting

- 3.14 The site is located at the southern settlement edge that comprises a relatively strong setting of modern housing development with associated garden. Views of the site beyond the immediate edge of the settlement are limited to glimpses between buildings. To the west the site is contained by mature hedgerows either side of the Barwell Lane restricting visibility to a short section of the highway and heavily filtering views of the site from the properties and Church of All Saints beyond. Mallory Park has a mature landscape setting that screens views towards the site. To the south the local setting of landform in combination with the location of public receptor groups means that views of the site are heavily restricted to

filtered views from the local network of public footpaths and sections of Shilton Road. To the east there are few public receptor groups with views limited to a short section of Peckleton Road. Visual receptor groups local to the site can be summarised as:

- Open and filtered views from the properties to the north of the site;
- Open and filtered views from a short section of Barwell Lane;
- Filtered and heavily filtered views from the churchyard and associated public right of way and property gardens to the west of Barwell Lane;
- Open and filtered views from Shilton Lane to the east of the site;
- Filtered views from a short section of Peckleton Road to the east of the site;
- Filtered views from limited sections of public footpath T85 to the south of the site.

3.15 The following paragraphs consider each representative view; see **GL2153 05 to 08**. View locations are identified on the site location plan; see **GL2153 01**.

3.16 View 1 is taken from Barwell Road approximately 20m from the site looking south. From this location there is an open view into the site that is likely to develop during winter months with limited leaf cover. The existing access is visible at the western boundary of the site, as is the shed within the site. The mature tree cover and native hedgerows associated with the site are visible at the Barwell Lane frontage, as is the modern housing and garden setting to the north of the site.

3.17 The proposed development will retain and reinforce the frontage hedgerow, but some loss will occur to accommodate the proposed highway access at the south-west corner of the site. This will be mitigated through the gapping up of the existing access. The proposed dwellings are set back from the highway aligned with the building frontage of the existing houses to the north. The existing mature Beech tree will be removed, but space has been created within the layout to accommodate new tree planting at the Barwell Lane frontage to mitigate the proposed tree loss.

3.18 View 2 is taken from Main Street at the junction with Church Road, Peckleton Road and Shilton Road, approximately 90m from the site looking south. From this location there are filtered views towards the site that are likely to develop in winter months with limited leaf cover. Existing modern housing development along Church Road is visible to the west with the immediate highway defined by the mature garden tree setting of no.5 Church Road.



- 3.19 The site and development are set back from Shilton Road benefitting from the intervening tree cover at the boundary of the highway. There are likely to be filtered views of the roofscape of the proposed housing, but as these become more visible in winter months these will be seen in the more immediate setting of housing at Church Road.
- 3.20 Views 3 is taken from Shilton Road approximately 45m from the site looking north-west. From this location there is a view across the roadside hedgerow towards the site and the existing modern settlement edge of Kirkby Mallory. To the west there are glimpsed views of the properties to the west of Barwell Lane. In winter months views of the site will develop with limited leaf cover, alongside more open views of the existing settlement and wider setting of properties to the west of Barwell Lane.
- 3.21 The development will be visible within the site from this location contained within the existing landscape framework of the site and established setting of modern residential development to the north.
- 3.22 View 4 is also taken from Shilton Road approximately 120m from the site looking north-west thorough a break in the roadside hedgerow. The wider setting of the highway is relatively well contained by mature native hedgerows, but visibility may increase in winter months with limited leaf cover and if the hedgerow height is reduced as part of its annual management. From this location there is a view across the immediate open setting of arable farmland towards the vegetated southern boundary of the site. There are filtered views across the site towards the setting of modern settlement to the north, and glimpses of the housing to the west of Barwell Lane.
- 3.23 From this location the proposed housing will be visible within the site but will read as part of the established settlement that defined the local horizon. The vegetation cover at the southern boundary of the site will be retained and reinforced to contain the development and protect the open setting of arable farmland to the south.
- 3.24 Views 5 and 6 are taken from public footpath T85 approximately 510m and 310m from the site respectively. From each location the site is substantially screened by a combination of intervening landform and vegetation cover. In winter months visibility of the site may increase after the crop has been taken off the field to the north lowering what currently presents as the ground plane which may introduce views of the vegetation cover at the southern boundary of the site and the upper extent of the established roofscape at the southern edge of the settlement.



- 3.25 From these locations there may be very restricted views of the proposed development roofscape. However, any such view is likely to be heavily restricted and seen in the immediate context of the existing settlement.
- 3.26 View 7 is taken from the churchyard of the Church of All Saints, just off the alignment of public footpath T85 approximately 160m from the site looking north-east. From this location there is a view to the north looking towards No.43 Church Road and its garden setting that extends east towards Barwell Lane. There is a view towards the gable of No.6 Barwell Lane with views of the site restricted by intervening vegetation cover. In winter months with limited leaf cover filtered views of the site will develop but are likely to be seen in the backdrop of the existing modern settlement edge.
- 3.27 From this location in winter months there may be filtered views of the proposed development within the site. This will be seen in the immediate setting of the modern settlement edge and is unlikely to alter the existing character of this view. Notably, the foreground setting of this view will remain unaltered, preserving the landscapes setting that surrounds the churchyard. In terms of the church, and its setting this is unlikely to be affected by the proposal. The church sits on an east to west axis with its main entrance on the northern elevation aligned with the driveway along Church Walk. The tower is located at the western façade with eastern façade presenting a single large window with no door to the churchyard beyond. Any harm to the setting of the church in visual terms would be negligible.



4 THE DEVELOPMENT PROPOSAL AND LIKELY LANDSCAPE EFFECTS

- 4.1 The proposal seeks outline planning permission for no.7 detached dwellings with separate garages with highway access taken from Barwell Lane at the western boundary of the site.
- 4.2 Plots 1 and 2 are set back from the Barwell Lane frontage, aligned with the properties to the north with highway access running alongside the southern boundary. Plot 3 sits centrally within the site with wide verges and garden frontages capable of accommodating a high level of new tree planting that will include larger broadleaved native species consistent with the wider landscape setting. Plots 4 to 7 are aligned with the eastern boundary of the site that will be defined by a timber post and rail fence, a new native hedgerow to complement the wider field boundaries and new tree planting.
- 4.3 Footpath access to the site is accommodated through an extension to the Barwell Lane roadside footpath extending into the site behind the retained native hedgerow. A new bin collection store is proposed just to the north of the new access road.
- 4.4 For the purpose of this appraisal the proposed dwellings are assumed to be two storeys extending to a height reflected in the established settlement, but this could be reduced to 1.5 storey at the Reserved Matter stage to secure further primary mitigation if required.
- 4.5 In terms of likely landscape effects, the loss of the pastoral setting of the site will be permanent and result in the extension of the settlement within a relative well contained setting. The eastern boundary of the site is undefined, but the wider setting of the field benefits from strong landscaped boundaries, and the planting of a new native hedgerow with tree cover will only serve to reinforce this setting over time.
- 4.6 Taking the key characteristics of LCA-D Newbold and Desford Rolling Farmland, this landscape is defined by its rolling landform and predominantly arable setting that provides open and panoramic views from form elevated areas and through gaps in hedgerows. These are not characteristics shared by the small and contained pastoral setting of the site at the edge of the modern settlement.
- 4.7 Taking the key sensitivities of LCA-D into account the most relevant to the site and proposal is the compact and nucleated pattern of small rural settlement. This is also reflected in the landscape strategy for LCA-D that seek to maintain the relatively small-scale of the settlements and ensure that developments relate to local vernacular. The proposal is relatively small in scale and has been guided by the retention and reinforcement of the historic landscape boundaries, another identified landscape strategy for LCA-D. Whilst the development of the site will extend the settlement it will not significantly alter the scale and



pattern of the settlement, and it will be contained within an established framework of landscape features that will limit any perception of encroachment.

- 4.8 What is established through both national and local character assessment is that settlement is an identified characteristic of LCA-D and the Leicestershire Vales and given the immediate relationship between the site and settlement the proposal will not introduce a new or discordant element into this landscape.
- 4.9 At an immediate site level, the development will transform what is currently an open field into a new area of housing development. This level of change is common to all housing proposals but what is key is that the proposal will not:
- Materially change or alter any designated assets;
 - Unduly impact on the setting of any designated assets;
 - Impact the key characteristics of the local landscape setting, or its identified sensitive and valued features; and
 - Significantly alter the pattern or character of the settlement. Arguably the gateway to the settlement along Barwell Road is not a part of the settlement representative of what would be considered the traditional Leicestershire vernacular. The design, detailing and presentation of the proposal could arguably enhance this gateway through the delivery of a more traditional and recognisable group of buildings.
- 4.10 In terms of magnitude of effect, the proposal is likely to result in a relative low change to the character of the settlement and the local setting of the site, leading to a moderate to minor adverse landscape effect in the short-term. Through the adoption of a high-quality landscape scheme with a focus on the reinforcement of the boundaries of the site and planting of new native trees the scheme could be mitigated in the long-term reducing the effect to minor adverse. This level of effect is not considered to be significant in the reading of Policy DM4 (i).
- 4.11 At a local level, the proposal is small in scale in the context of LCA-D and given the consistency of the proposal with the established settlement is unlikely to result in an effect that would extend beyond the fields at the immediate edge of the settlement. The likely magnitude of effect on the wider setting of LCA-D and associated setting of the Leicestershire Vales would be negligible, resulting in a short-term minor adverse effect. Given the ability of the scheme to deliver a high-quality design that responds to the traditional Leicestershire vernacular in combination with a robust landscape scheme, the

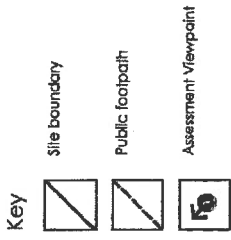


proposal has the potential to secure a reasonable level of mitigation and assimilation. This in turn would reduce the effect of the proposal on the local setting of LCA-D in the long term to minimal adverse. Again, this level of effect is not considered to be significant in the reading of Policy DM4 (i).

- 4.12 In terms of visual effects, the proposals will alter the views from some of the properties at the southern edge of the settlement, and the more immediate views from a relatively short section of Barwell Lane at the eastern boundary of the site. The majority of views from properties are either secondary or oblique views, and when viewed from the highway the development will be seen in the established residential setting of the settlement and therefore not introduce a new or visually discordant element. In the short-term the proposal is likely to result in a moderate adverse visual effect to these receptor groups, in part due to the proximity of the viewer and the scale and nature of the proposed change. The adoption of a high-quality landscaping scheme will help to assimilate the development and soften and filter views of the new housing, but the likely visual effect will remain moderate to minor adverse, and not considered to be significant in the reading of Policy DM4 (i).
- 4.13 Moving away from the site the proposal will be seen over distance and in the established residential backdrop of the settlement. The likely magnitude of effect will be low resulting in short-term moderate to minor visual effect, reducing to minor adverse in the long-term as the new landscaping matures and softens the appearance of the new housing.
- 4.14 From the churchyard there are likely to be heavily filtered views of the proposal in winter months seen in the backdrop of the existing settlement. The likely level of effect to users of the churchyard will be minimal adverse, reducing to negligible over time.
- 4.15 In conclusion, it is considered that whilst this proposal will result in a range of moderate short-term and minimal long-term adverse landscape and visual effects, these are the range of effects that are common to and typically expected of most new housing development and are not considered to be significant in the reading of Policy DM4 (i).



Figures



License No. 100053702

north

Project	Barwell Road, Kirkby Mollay
Scale	1:10000 @ A3
Date	18/06/2023
Drawn by	JG
Checked by	Mr J Lawrence

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Key



Site boundary



Settlement Boundary (KIRK01)



Open Space, Sports and Recreational Facility



Grade I* Listed Building



Grade II Listed Building



1km



licence No. 10053702

north

GL2153 02

1:100000/A3

date
18/06/2023

JG

Project
Barwell Road, Kirkby Mallory

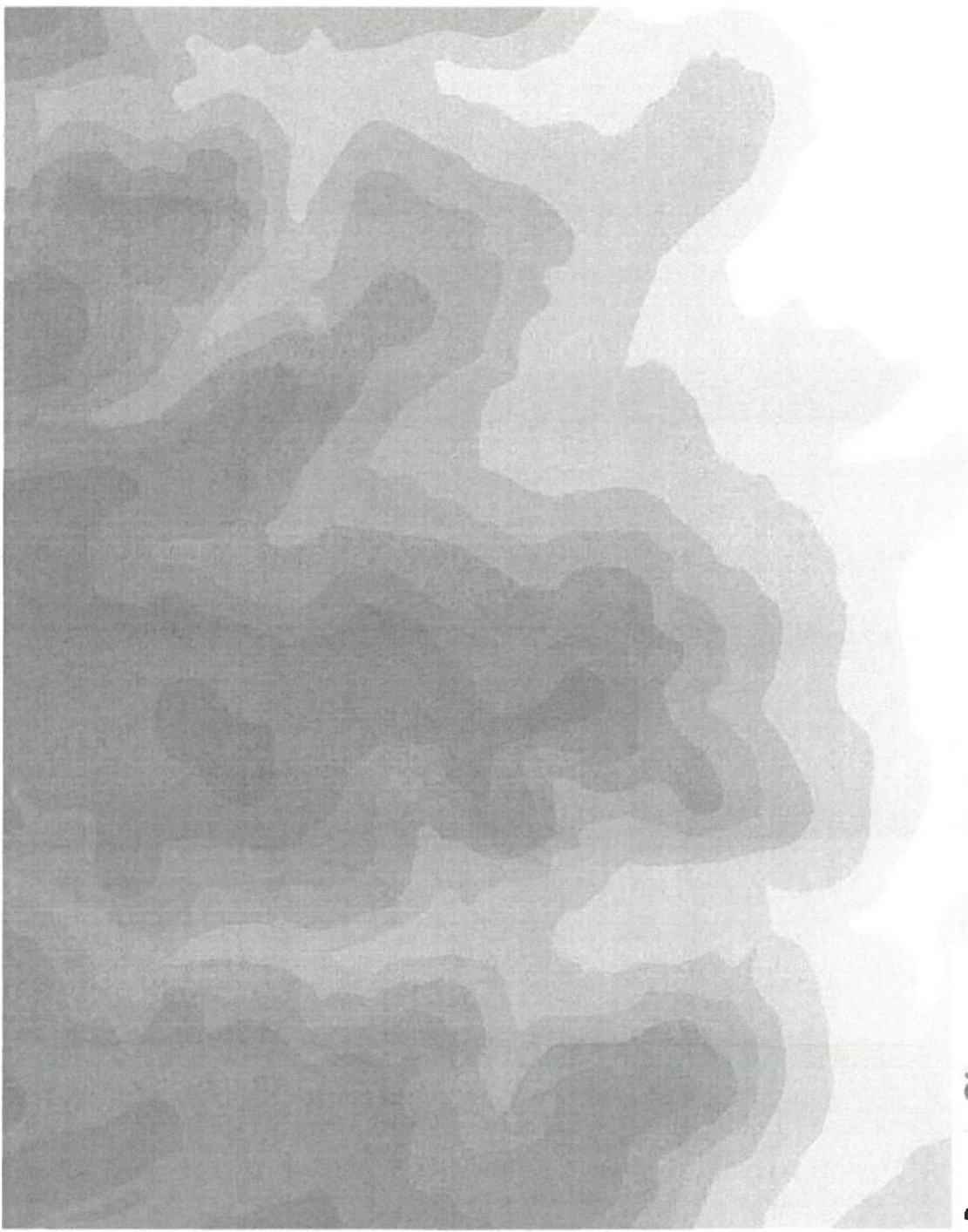
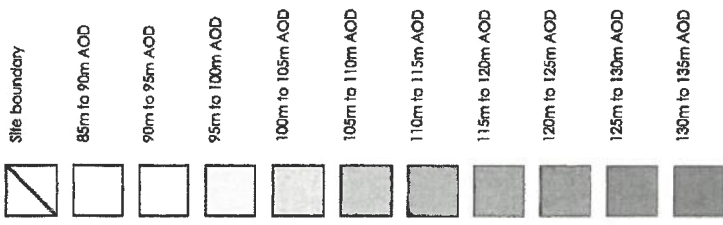
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Designations

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Key



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north

Project: Barwell Road, Kirkby Mollay
Drawing No: 1:10000/EA3
Date: 18/06/2023
Checked: JG
Project: Topography
Checked: Mr J Lawrence

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Key



Site boundary



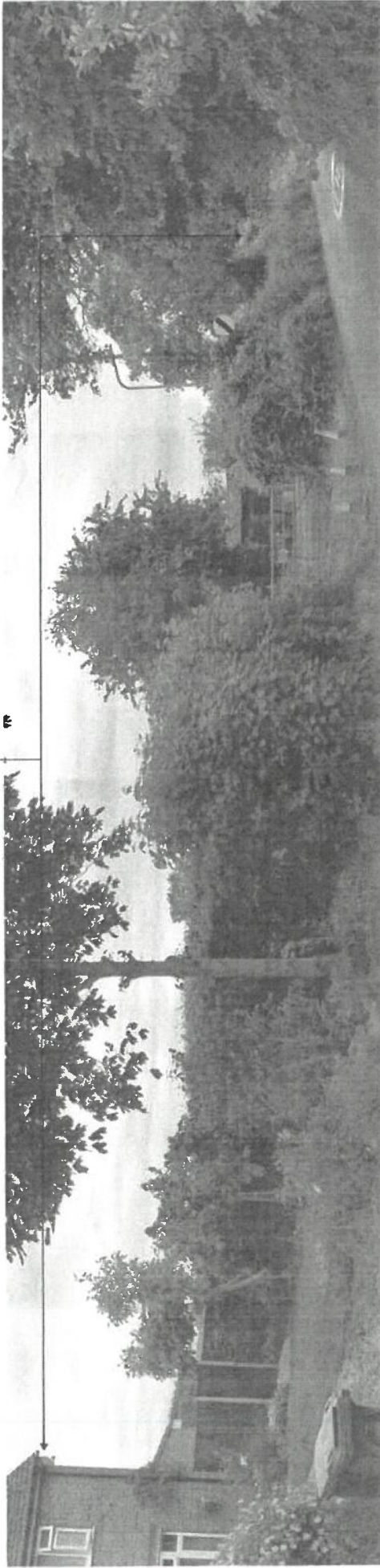
LCA D: Newbold and Desford Rolling Farmland



LCA E: Stoke Golding Rolling Farmland



Approximate extent of site in view



View 1 - From Barwell Lane approximately 20m from the site looking south

Approximate extent of site in view



View 2 - From Main Street approximately 90m from the site looking south

north

Number Figure
GL2153 05

Barwell Road, Kirkby Mallory

NTS@A3

Photographic Views
1 & 2

18/06/2023

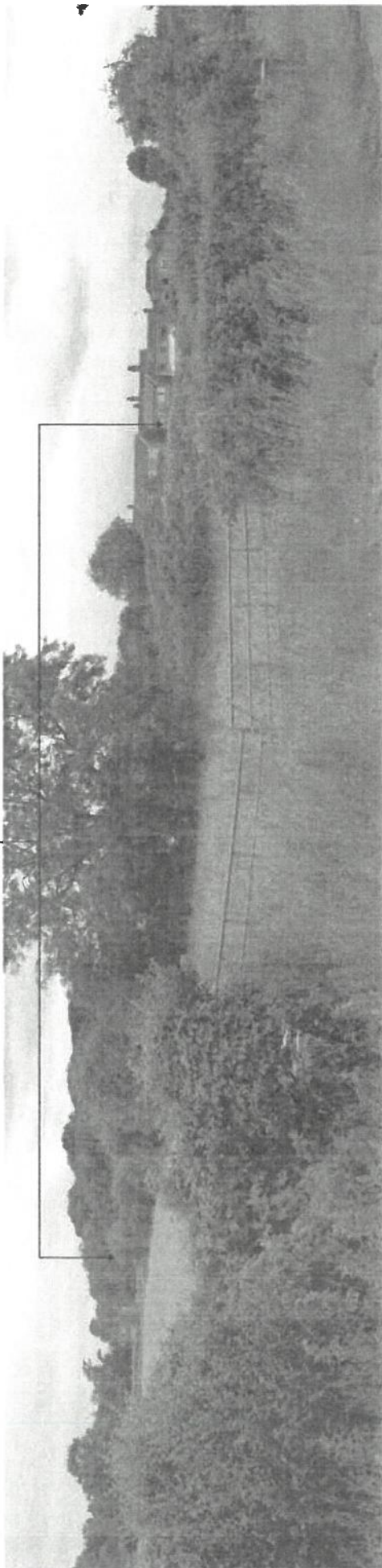
Mr J Lawrence

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Approximate extent of site in view



View 3 - From Shilton Road approximately 45m from the site looking north-west

Approximate extent of site in view



View 4 - From Shilton Road approximately 120m from the site looking north-west

north

Project
GL2153 06
Scale
NTS@A3
Date
18/06/2023
Client
Mr J Lawrence

Project
Barwell Road, Kirkby Mallory

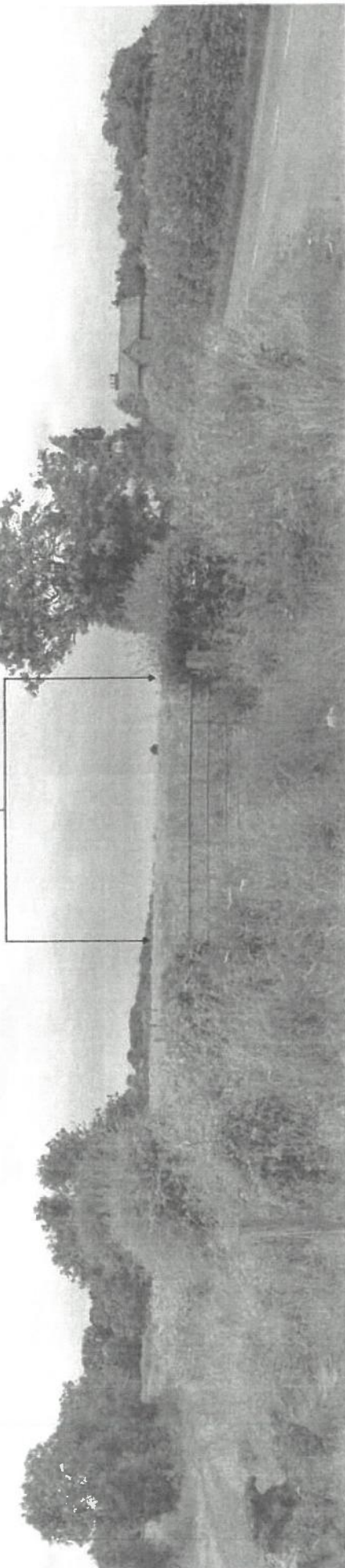
Drawing title
Photographic Views
3 & 4

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Approximate extent of site



View 5 - From public footpath T85 approximately 510m from the site looking north-west

Approximate extent of site



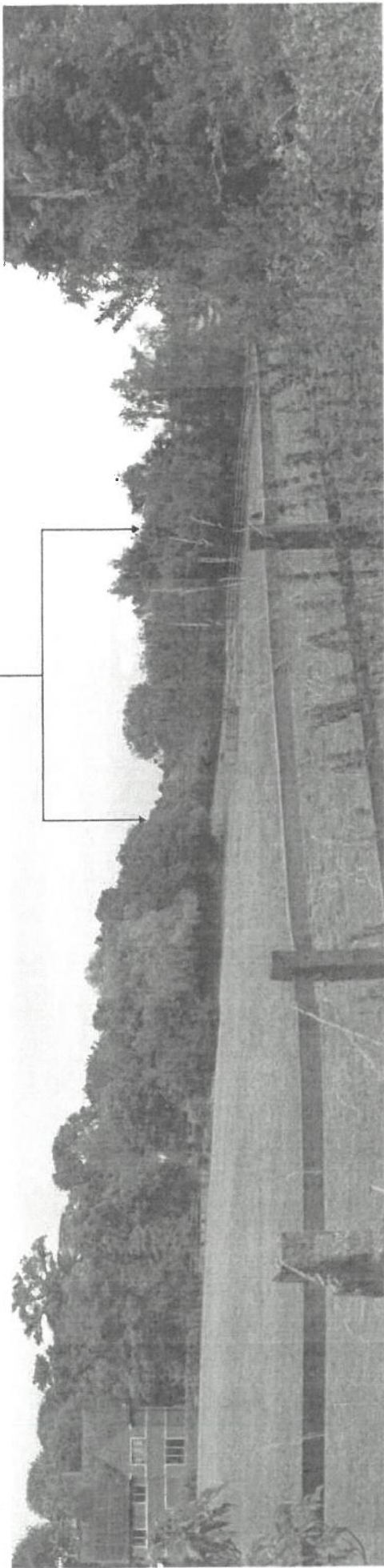
View 6 - From public footpath T85 approximately 310m from the site looking north

north

Project	Barwell Road, Kirkby Mallory
GL2153 07	
NTS@A3	Photographic Views
18/04/2023	5 & 6
JFC	Mr J Lawrence

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Approximate extent of site



View 5 - From the churchyard of All Saints Church approximately 160m from the site looking north-east

north

Number/Revisions
G12153 08
NTS@A3
Date
18/06/2023

Project
Barwell Road, Kibby Mallory
Drawing title
Photographic View
Client
Mr J Lawrence

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landscape architects

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Office: 207 Leicester Road, Lutterick, Leicestershire, LE17 6NP
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Noise Assessment Report

Re: Outline Planning application

Proposed Residential Development for up to 7 Dwellings

On

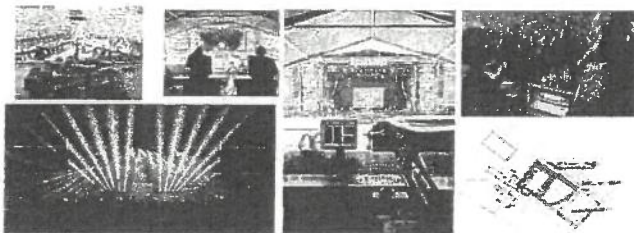
Land to the East of Kirkby Mallory, Leicestershire:

On behalf of :

Mr J Lawrence

Steve Leeland

Acoustics & Noise Control



Steve Leeland – 07847 510351

steve.leeland@ntlworld.com

Introduction:

Steve Leeland Acoustics and Noise Control was appointed by The applicants to consider the the planning issues relating to the proposed development of the land to the East of Barwell Road, Kirkby Mallory, Leicestershire. In relation to an outline application. At this stage it is considered that a statement of intent would be sufficient to satisfy any potential noise issues. A full submission of any noise mitigation, to be incorporated into the proposed dwellings would be necessary at the full plans submission stage. The noise issue, which is known to be most pertinent to this application, would be noise from the nearby Mallory Park Race Circuit.

Discussion:

The location of this proposed development is close to the Mallory Park Race Circuit. Mallory Park Race Circuit is a nationally renowned venue and has been for many years. It would be unreasonable for anyone, who lives nearby, to expect, not to hear the circuit when it is in use. However, the current operators, who have control of the circuit, have committed to trying to operate the venue in a responsible and controlled manner. An Abatement Notice, that the circuit operates under, aims to prevent Statutory Nuisance. This notice has been in force for a number of years, and has allowed the circuit to be operated in such a way as to cause minimal disturbance to the local residents.

The location of the proposed development site is bounded by existing residential properties that are closer to the race circuit. The current restrictions on the circuit already protect these existing properties and as such, the proposed development would not be subjected to any more significant noise than the existing properties.

If the development is submitted for full planning permission, the Developer should be required to demonstrate that the dwelling will be constructed to meet the requirements of **BS8233-2014 Guidance on sound insulation and noise reduction in buildings**. This would ensure a satisfactory noise climate for the dwellings can be achieved.

Conclusions:

It is my professional opinion that the proposed development of this site, as contained within this application would not be adversely affected by noise generated from the Nearby Race Circuit. Detailed specifications of sound insulation in the building elements may be conditioned as a requirement at the full planning application stage.

Steve Leeland is an ex Local Authority Environmental Health Officer, with 18 Years experience of Pollution Control, and in particular, Noise and Nuisance Control and Enforcement. For the last eleven years he was the lead officer for noise, licensing and anti social behaviour at North West Leicestershire District Council Responding, and commenting, on planning applications in relation to noise issues gaining many years of invaluable experience.

DISCLAIMER

The preparation of this report by Steve Leeland has been undertaken within the terms of the brief and the terms of the contract, using reasonable skill and care and taking account of the resources devoted to it by agreement with the client. I disclaim any responsibility to the client and others in respect of any matters outside the scope of the above. This report is confidential to the client and I accept no responsibility of any nature to third parties to whom this report, or any part thereof, is made known. Any such party relies on the report at their own risk.

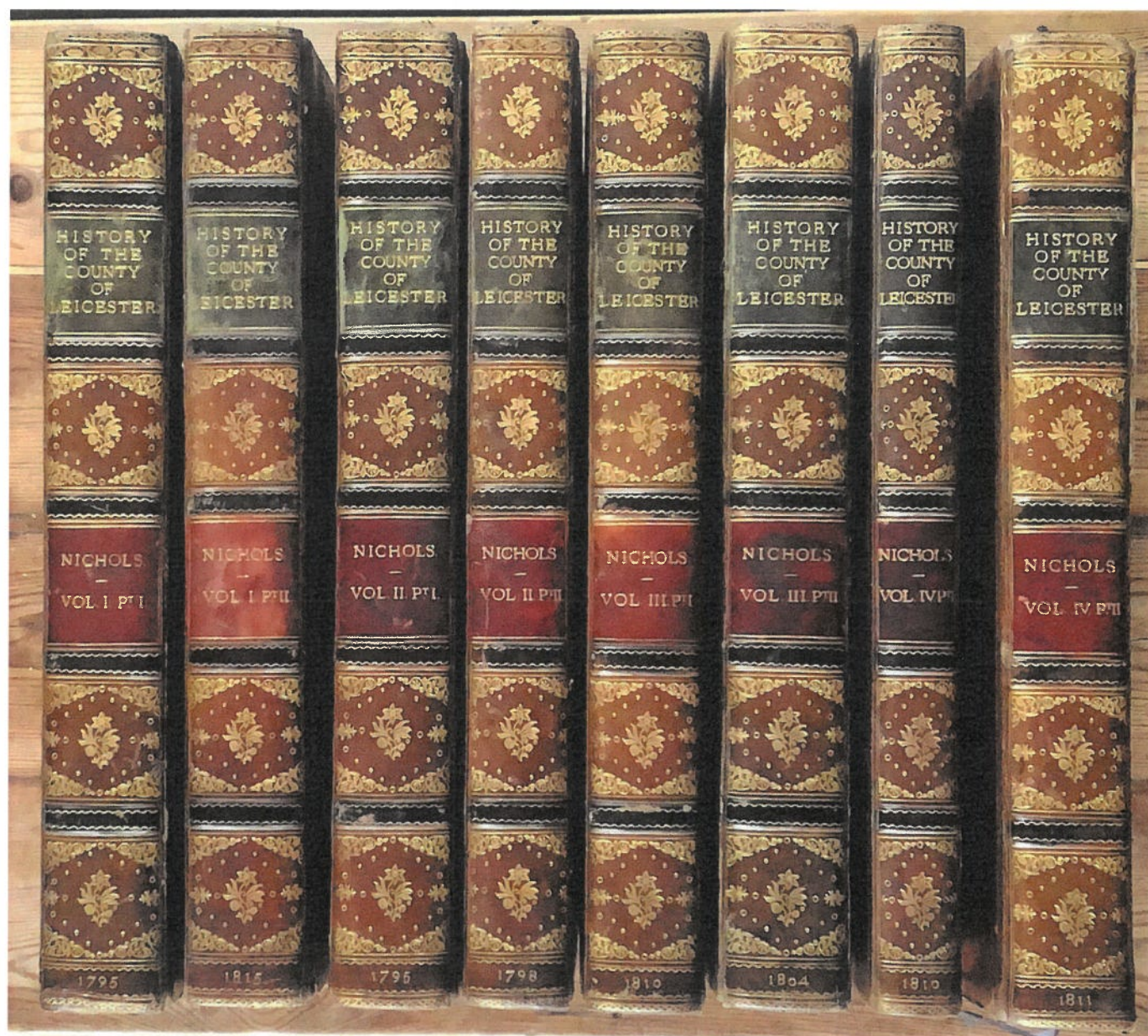
The opinions and interpretations presented in this report represent my reasonable technical interpretation of the data made available to me. However, due to the uncertainty inherent in the estimation of all parameters, we cannot, and do not guarantee the accuracy or correctness of any interpretation and we shall not, except in the case of gross or wilful negligence on our part, be liable or responsible for any loss, cost damages or expenses incurred or sustained by anyone resulting from any interpretations of this information. Steve Leeland Acoustics and Noise Control accepts no responsibility for data provided by others.

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Quality Assurance

Issue / Revision	Date	Author
V1.1 Final	01/02/2020	Steve Leeland



HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL I PT I

1795

HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL I PT II

1815

HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL II PT I

1795

HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL II PT II

1798

HISTORY
OF THE
COUNTY
OF
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NICHOLS
VOL III PT I

1810

HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL III PT II

1804

HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL IV PT I

1810

HISTORY
OF THE
COUNTY
OF
LEICESTER

NICHOLS
VOL IV PT II

1811



In 1296, it was found that the town of Kirkby Malory was held in fee of the Honour of *Leicester*; that *Thomas Mallure* held the same of *Edmund* earl of *Leicester*, who held the same, with Shulton and Desford, of the king, by the service of one knight's fee; and that there were 18 virgates of land there out of demesne, whereof the prior of *St. Deuey* held five virgates, and the prior of the Hospital of *St. John of Jerusalem* four virgates, both by the feoffment of *Robert de Malore*¹².

COAT OF ARMS OF KIRKBY MALORY.

Quarterly; Plate CXX. fig. 1.

S H I L T O N,

otherwise called *Schelton*, *Shulton*, and *Earl's Shilton* (to distinguish it from another *Shilton* near Coventry), is a hamlet of *Kirkby Malory*; situated on the high road from *Leicester* to *Hinckley*, from the former of which it is ten miles distant, and three from the latter. It is bounded by *Tooley* and *Peckleton* on the North, by *Kirkby* and *Barwell* on the West, by *Elmesthorpe* and *Stanton* on the South, and by *Marston* and *Normanton* on the East.

Five ploughlands in *Sceltone*, which in the reign of the Confessor had been valued at five shillings, were worth seventy shillings at the general survey, when they were held by *Hugo de Grentesmainell*. Three ploughs were in the demesne, with one bondman; and ten villans, with a priest and four socmen

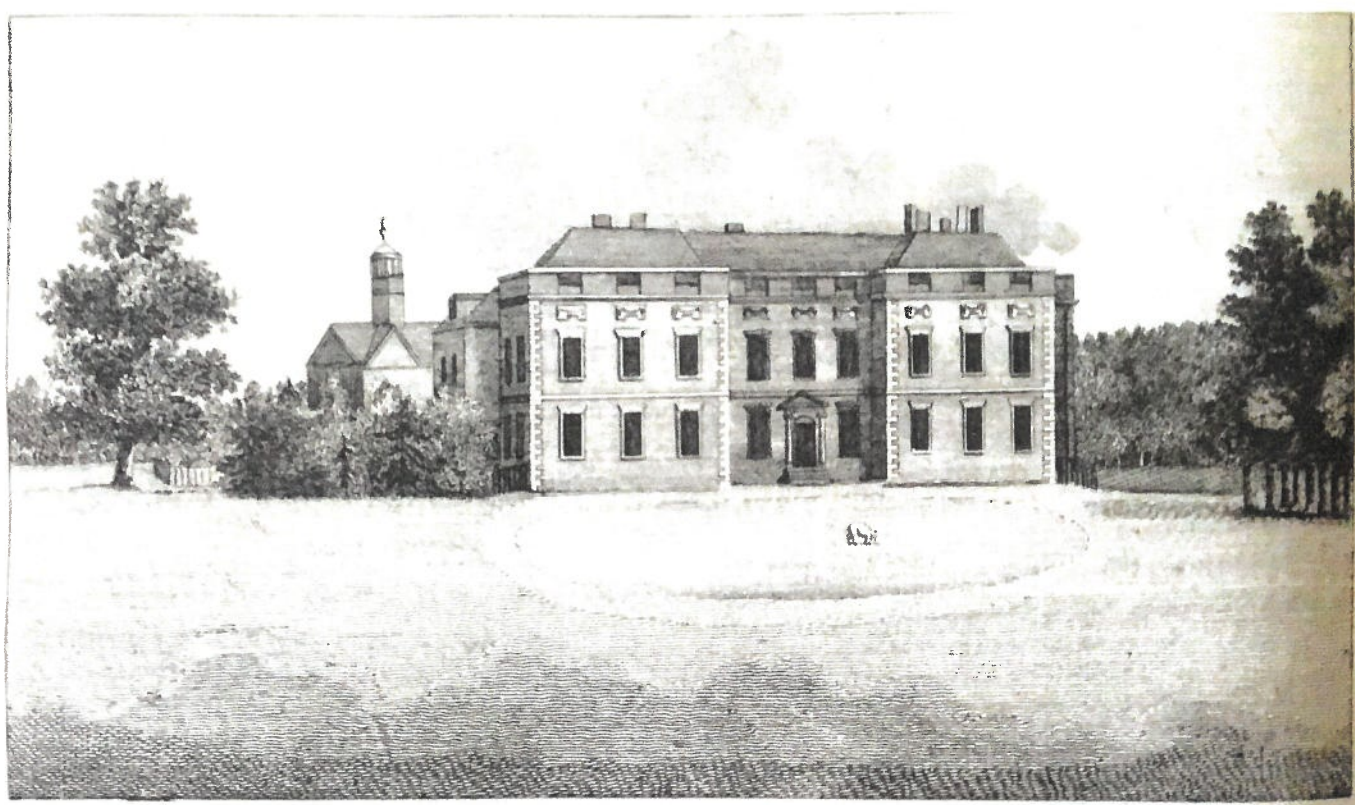
In 1279, th
 “Shulton e
 mundus come
 terre in domir
 ventriticum.
 terre, quas tri
 nurâ quatuor
 que liberi ten
 prior de War
 feodo in perpe
 tenet predicti
 non dat scuti
 netur ignoran
 cum, & liber
Tholowd. Ha



KIRKBY
The Seat of the Right



HALL,
Now the Possession of Messrs.



KERKBY MALORY.

Vol. 89, 1938, 224



To the Right Honourable THOMAS NORRIS.

1. *Phragmites australis* (Cav.) Trin. ex Steud.



Fig. 29. p. 773.

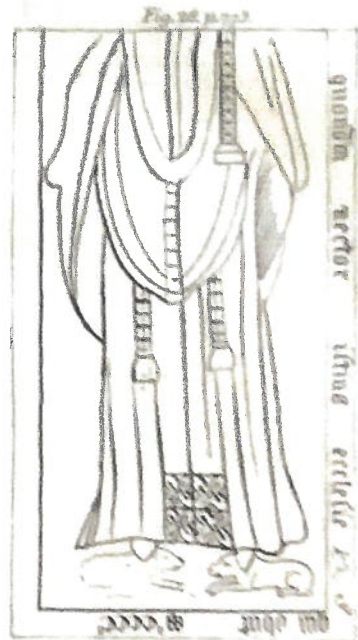


Fig. 18. a.



Fig. 25. a.



Fig. 16



PEDIGREE of MALORY, of KIRKBY MALORY.

Arms: Or, a lion rampant Gules; Plate CXX, fig. 1.

Geoffrey Malory, in the time of king Stephen.....

Ankitell Malory, governor of Leicester castle 1174.....

Henry Malory, 1199.....

Sir William Malory, knt. 1216.....

Sir Richard Malory, knt. 1221.....

Robert Malory, 1261..... William Malory, of Walton, 1293.

Sir Thomas Malory, knt. 1300.....

Sir Ralph Malory, knt. 1300, 1337.....

Ralph lord Basset of Sapcote, died 1379; first husband. = Alice, daughter and heir of sir John Dryby, knt.; relict of Ralph lord Basset of Sapcote; died 1413. = Sir Ankitell Malory, of Kirkby Malory, knt. 1347, 1389; 2d husband; sold Kirkby Malory to the abbot and convent of St. Mary de Pratiss at Leicester. = Sir John Bernack, knt. died 1410; third husband.

Sir Thomas Malory, knt. lord of Bramcote, co. Warwick, in right of his wife. = Margaret, daughter and heir of sir Thomas Grendon, knt. Margery, married sir Robert Moton, of Peckleton, knt. Beatrice, married sir John Bagot, of Blithfield, co. Stafford, knt.

Elizabeth, heir to Alice her grandmother, married to sir Robert Ever, knt.; died 1482.

Frances, married, first, to sir *Charles Skrymsher*, of Norbury manor in Staffordshire, knight, and, secondly, to sir *John Chester*, of Chichley in Buckinghamshire, bart.

Sir *Thomas Noel*, bart. the eldest son and heir, wedded *Anne* daughter of *William Whitlock*, of Phillis court, near Henley upon Thames, Oxon. esq.; but dying in 1688, without issue by her, was buried at Hurley in Bucks. His lady (after having been 48 years a widow) died Jan. 8, 1736-7, at Merton abbey, Surrey, æt. 75. He was succeeded in honour and estate by his brother,

Sir *John Noel*, bart.; whose estate at Kirkby Malory is thus described in a Rent-roll of 1696:

"The manor of Kirkby Malory, with £. s. d.
a court leet and court baron, &c.

The mansion-house, with spacious fine gardens and orchards, &c. belonging to it, with a very fine wood near adjacent to the same.

The advowson of, and right of presentation to, the church of Kirkby Malory.

A large park, very well wooded, and stored with deer, set in the life-time of sir *Thomas Noel*, baronet, since deceased, for several years (deer excepted), at 100*l.* per annum, and the running of six horses, &c.

In the possession of John Holines	-	100	0	0
William Fletcher	-	65	0	0
George Thurnehy	-	56	0	0
William Adcocke	-	44	10	0
Alexander Hurst	-	43	0	0
George Winsor	-	30	0	0
John Spencer	-	32	0	0
John Goddard	-	22	0	0
Richard Marshall	-	24	0	0
Joab Adcocke	-	16	0	0
John Cooper	-	6	13	0
William Dilkes	-	12	0	0
Richard Sheepie	-	5	12	0
James Adcocke	-	8	0	0
Thomas Cooper	-	6	0	0
Nicholas Henthior	-	2	3	0
Humphrey Atterton	-	2	0	0
John Mongerberry	-	2	0	0
Edward Ball	-	1	0	0
Widow Knight	-	0	16	0
Paul Close, Pick Iron, and Paddock	-	1	14	0
Wind-mill and water-mill	-	24	0	0
Widow Grundey (by lease)	-	22	0	0
Richard Fulshaw ¹ (by lease)	-	13	0	0
Widow Fletcher (by lease)	-	12	0	0
Mrs. Drakely	-	4	10	0
The Gorchayes	-	4	0	0
Thomas Adcocke	-	3	0	0
William Middleton	-	2	0	0
William Arneston	-	0	1	0
Widow Drakely	-	0	10	0
John Drakely	-	0	1	0
		565	11	0

"Note, that a great part of Kirkby Malory is now (in 1696) open fields; which, by an inclosure, may be advanced 300*l.* per annum; and that the wood upon the said estate is worth 3000*l.*

"The farms pay all taxes, &c. and bring two loads of coals to a yard land; and also pay a couple of capons, &c.

"The Rental of Whellesburgh at the same time was 444*l.*; of Congeston, with part of the manor of Lindley, 90*l.*; which, with rents in Bosworth, Coston, Sibbeston, Fleckney, Knote, Langdone, and Solihull, amounted in the whole to 1751*l.*"

Sir *John Noel*, by *Mary* his wife, daughter and coheir of the loyal sir *John Clobery*, of Winchester in Hampshire, and Bredstope in Devonshire, knt. had two sons; 1. sir *Clobery Noel*, bart. his heir; 2. *William Noel*, esq.; and a daughter *Anne*, married to *Francis Mundy*, of Markeaton in Derbyshire, esq.

William Noel, esq. the said second son, having been bred to the law, was one of the late king's counsel; and, in 1722, 1727, 1734, and 1741, was elected one of the members for Stamford in Lincolnshire, of which corporation he was also recorder. In 1747, he was returned to parliament for West-Looe (or Port-pignam) in Cornwall, and likewise in 1754. In 1750 he was appointed chief justice of Chester, and continued in that office till March 1757, when he was constituted one of the judges of the court of Common Pleas. He died December 8, 1762; and, having wedded *Elizabeth* daughter of sir *Thomas Trollope*, of Casewick in Lincolnshire, bart. by *Susanna* his wife, one of the daughters and coheirs of sir *John Clobery* aforesaid, was father of four daughters; 1. *Mary*, who married *Thomas Hill*, of Tern in Shropshire, and member of parliament for Shrewsbury, and died Feb. 14, 1760; 2. *Anne*, who died unmarried; 3. *Frances*, married to *Bennet Sherrard* earl of Harborough, and died Dec. 13, 1760; and, 4. *Elizabeth*. By his last will, dated Feb. 1, 1760, he gave all his real estates in the counties of Lincoln and Leicestershire, and elsewhere, to his wife *Elizabeth* for life; and, after her death, one-third part to his daughter *Mary Hill*; another one-third to *Edward* lord *Wentworth*; and one-third at the disposal of his daughter *Frances* countess of *Harborough*.—And in 1769 an act of parliament was obtained, for vesting the estate of the hon. *William Noel*, deceased, situate in Stamford, co. Lincoln, in trustees, to sell the same, and applying the monies arising therefrom as therein mentioned.

Sir *Clobery Noel*, bart. eldest son and heir, was returned one of the knights of the shire for this county, 1727; died July 30, 1733, and was buried at Kirkby Malory. Having wedded *Elizabeth* daughter of *Thomas Rowney*, of Oxford, esq. and one of the members for that city in several parliaments, he had by her six sons; 1. *Edward*, late viscount *Wentworth*; 2. the Rev. *Clobery Noel*, who died in March 1763, without issue, and was buried at Kirkby Malory; 3. *Thomas Noel*, esq. who was promoted to be captain of the Greyhound frigate on the 12th of November, 1745. In this ship he was, in the ensuing year, employed as a cruiser off the coast of Scotland, an occupation in which he signalised himself as described beneath. In 1748, he commanded the *Severn* of 50 guns. No farther mention is made of him till we find him, in 1756, captain of the *Princess Louisa* of 60 guns, one of the ships composing the squadron ordered to the Mediterranean under the unfortunate Mr. Byng. In this ship he unhappily lost his life, being desperately wounded in the encounter with Mons. *De Collisnieres* on the 19th of May. He died at Gibraltar on the 5th of June following, and was buried there. 4. the Rev. *John Noel*; 5. the Rev. *Rowney Noel*,

Kirkby Malory.				Earl's Shilton.			
	£.	s.	d.		£.	s.	d.
Money raised for the poor, within the year ending at Easter 1776, —	45	3	6	Money raised for the poor, within the same period — — —	255	17	9
Expended in county rates, &c. —	4	16	2		3	5	4
— on the poor, —	40	7	4		251	14	3
Rent of workhouse and habitations, —	1	6	0		10	19	6
Expended in litigations, —	0	2	6		2	1	8
Money raised for 1783, — —	97	19	6		291	9	5
— 1784, — —	92	4	6		385	8	0
— 1785, — —	54	1	7		288	8	9
Medium of these three years, —	81	8	6		321	15	4
— of county expences, —	3	19	3		4	18	0
— of expences not relating to the poor; repairs of the church, roads, &c. —	4	15	9		4	4	0
— of nett annual expences, —	72	13	6		312	13	4
— of attending on magistrates, —	0	2	3		3	4	2
— of entertainments at meetings, —	0	8	11		0	7	7
— of law expences, — —	0	5	4		6	1	2
— of setting the poor to work, — — —	0	0	0		0	13	4

The Return made to Parliament in 1786, in answer to an enquiry respecting the charitable donations in Kirkby Malory and Shilton, may be seen in vol. I. p. 105.

By the Return made to Parliament in 1801, Kirkby Malory contained 47 inhabited houses (and 3 uninhabited), in which were 49 families, consisting of 125 males, 118 females, total 243; of whom 15 were employed in agriculture, and 90 in trade, manufactures, &c.

Extracts from the Register, commencing 1695:
1695. Aug. 11. Died Thomas Boothby, esq. of Tooley Park.

1734. July 25. Edward Juba, a Black, supposed to be about ten years of age, was baptized; sir Edward Noel, bart. Wrightson Mundy, esq. and Mrs. Jane Dixie, being sureties.

1750. Dec. 24. Died Mrs. Judith Lambe.

1774. Nov. 20. Edward Juba, a Negro, was buried at Kirkby.

23/00824/OUT - Land at Barwell Road, Kirkby Mallory

Comments following discussion with planning officer on 24/11/23

And in response to quoted Appeal Ref: APP/K2420W/23/3317284
Land at Bagworth Road, Nailstone, Nuneaton CV13 0QJ

Comparison of Appeal Site with Application Site:-

Application Site	Appeal Site
1. Edge of village - outside, but whole site lies adjacent to village envelope.	1. Edge of village - outside, and majority of site does not lie adjacent to village envelope – there is a significant projection into open countryside on three sides.
2. Existing continuous substantial mature hedge and tree screening on all countryside boundaries. There is no boundary demarcation to the north-eastern side, but 40 metres beyond is the mature hedge to Shilton Road, providing a complete screen along the highway in that direction. The hedge and the land between are in the control of the Applicant. The western boundary adjoins the side elevation of a roadside house, behind which is a residential garage block and court and an electricity sub-station. There is no overlooking.	2. No screening of any kind on any of the boundaries, except on the south-west side. This boundary has a short section adjacent to a roadside house and two houses to the rear of that, beyond which are several individual semi-mature trees/bushes fronting a paddock. All remaining boundaries have an uninterrupted outlook over extensive distant open countryside views. There will be oblique overlooking from the two back-land development dwellings.
3. This has been included in the SHELAA, indicating that the Planning Authority was already satisfied that the site would be suitable, available, achievable and that there would be no significant constraints to it being developed for housing.	3. No evidence was found that the whole site had already been included in the SHELAA, so it has not been tested against any of the criteria that have to be satisfied before acceptance into the SHELAA can take place. Only part of the site with frontage was included in the 2018 SHELAA; 5 years ago; this has been developed with the frontage and back-land dwellings, which were occupied at the time of the 2022 Application and subsequent Appeal.

4. Supporting evidence contained a detailed independent Landscape Assessment which included a full analysis of the criteria in DM4 and concluded in respect of the analysed impact of residential development of the site that:- " 4.15These are the range of effects that are common to, and typically expected of, most new housing development and are not considered to be significant in the reading of Policy DM4."	4. No independent Landscape Assessment was submitted in support of this Appeal or the refused application, (Ref 22/00302/OUT). In the Appeal Statement, this issue was addressed in a single paragraph:- 6.19 "Whilst it is in the countryside, the site is in an edge of settlement location where open views for the site are limited and where visible, the site is viewed in the context of the built form of the village. The overall effect of the proposal in terms of landscape and visual impact is not considered high."As such it is concluded that the Appeal proposals would not have an unacceptable impact on the countryside, more specifically with reference to SADMP Policy DM4, the Appeal proposals would not result in a significant adverse effect on the intrinsic value, beauty, open character, landscape character of the countryside" The Inspector disagreed, as detailed in paragraphs 9, 10 (and most importantly) paragraph 12, of his Decision.
5. A noise assessment was carried out by an Acoustics and Noise Control Specialist and was submitted in support of the application. The conclusion reached was that ".....the proposed development of this site.....would not be adversely affected by noise generated from the nearby Race Circuit."	5. Noise was not identified as an issue in this case.
6. In addition to the small contribution that the provision of housing on this site would make towards overcoming the current shortfall in housing numbers in the Borough, it also makes provision for 3 self-build dwellings. There is a specific planning policy intended to make an adequate provision of this type of dwelling in the Borough and there is also an identified unsatisfied need at the present time.	6. No provision was made for any self-build dwellings.

7. Kirkby Mallory has a broader range of services and facilities than Nailstone, which is classed in the Settlement Hierarchy Review of December 2021 as a Rural Hamlet. Indeed, it has a place of worship, a village hall, a shop, a public house and restaurant, employment opportunities at the racetrack and a limited bus service. It is much closer to a Key Local Centre than a Rural Hamlet, and recognition of this should be made in assessing it's level of sustainability, and appropriate weight given to it.	7. Nailstone has no restaurant, no pub nor a village hall, but it does have a school which has been strategically sited to serve the surrounding area as much as the village. It has only a limited bus service. It fits the definition of a Rural Hamlet.
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Comments in support of the Application

- Smaller development sites are vital to the overall process of delivering sufficient homes in the Borough. They attract Small and Medium-sized developers ("SME's") who provide greater levels of local employment, and require the local provision of materials and sub-contract skills. They are in need of a constant regular turnover and are flexible enough to be much more efficient on time and cost. Incomes generated by SME's remain within the local economy to the benefit of the community in which they work.
- The comparatively wide range of services that Kirkby Mallory currently has, is highly valued by the local community. If these services and facilities are to be sustained, it is necessary to provide a steady increase in demand through allowing a limited expansion of the local population by the construction of small sites such as this, which can be accommodated without undue strain.
- Due to the significant differences between them, a valid comparison between the Appeal site at Nailstone and this application site cannot be made. It is a fundamental tenet of Planning Practice that each application must be treated on it's own merits and in that respect this application deserves favourable consideration and should be recommended for approval.

Email Communique'

Date:22nd October 2024

FAO: Mr.T.Hartley - Planning and Development Manager.

Ref: Planning Application No:23/00824OUT

Dear Tim,

At the request of both the Applicant and Mr.S.Clarke, I to write in respect of the current aforementioned outline planning application for the proposed residential development for a combination of Self-Build (3) and Market (4) Dwellinghouses on land adjacent to No:9 Barwell Lane, Kirby Mallory,Leicesteshire.

The *sustainable settlement* of Kirby Mallory provides a range of day-to-day services and facilities including a school, a place of worship, a recreation play area, a community centre, a restaurant and a convenience shop in addition to a number of local business employers and a major tourist attraction that are *all* available within a walking distance from the subject application site via contiguous (illuminated) footways.

The subject application site is positioned between a walking range of circa:100.00M-600.00M (0.062mile-0.37mile) from the existing services and facilities via linked footways.

- 110m - convenience shop
- 120m - recreational play area
- 160m - restaurant
- 210m - school
- 460m - church
- 550m - employment
- 620m - major tourist attraction

The CIHT Planning for Walking notes that circa: *"80% of journeys that are shorter than 1 mile are wholly on foot"* and it is considered that the application site meets the '5C's" having walking routes *connected* to key attractors (shops,transport stops,schools etc.), *convivial* interactive routes, clear and legible *conspicuous* routes, *comfortable* routes with quality pavements and *convenient* direct routes for those traveling via foot and *ipso facto*, there is clear potential for short motor vehicle trips to be substituted by other modes of sustainable transport including walking, cycling and public transport.

It is acknowledged that whilst a degree of tension and conflict exists with permissive SADPM Policy DM4 and the Council's policy on Self-Build and Custom Housebuilding (which is silent and lacking in provision within the Local Plan) and the development proposal, the Council is failing in its statutory duty to ensure sufficient provision to meet local demand for housing supply.

Market Housing

The Council's 5 Year Housing Land Supply Statement (01.04.23 - 31.03.28) suggests - utilising the current Standard Method - a **5.6 YHLS** based upon a local housing need of **433pda**.

However, it is considered that the true position in taking into account the LCC's apportioned figure of +187 dpa (Duty to Cooperate/Statement of Common Ground etc.) results in an annual requirement quantum of **620dpa** resulting in a shortfall of housing with a resultant **3.89 YHLS** figure.

In addition, it is noted that this said quantum figure may further be eroded to a **3.5YHLS** with the proposed NPPF revisions resulting in the Council's requirement to deliver a minimum of **689dpa**.

Self- Building Housing

Given the Council's acknowledgement of the scale of the said shortfall - 7 SB Dwellinghouses required at the closing of current base period (30.10.24) and 19 SB Dwellinghouses required in the approaching new base period (31.10.24) - it is considered that **substantive weighting** should be applied in the overall planning assessment with the **tilted balance** engaged.

Section 2A (2) of the Self-build and Custom Housebuilding Act 2015 states:

*"an authority to which this Section applies **must give permission** for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period"*

Paragraph 70 of the NPPF 7 advises:

"to promote the development of a good mix of sites local planning authorities should:

b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom build housing"

Meritorious Planning Appeal Exemplars:

Appeal Ref.No:APP/H/1840/W/19/3241879 ^{*1}

The appeal site is a rural site located outside the defined limits to development whereby the Inspector noted that the development site was not able to be defined as being described as *'adjacent'* to the settlement given the intervening small fields and other low density properties, concluding that any harm would be very limited and able to mitigated via careful design and landscaping.

In finding the Council's inability to demonstrate sufficient planning permissions - notwithstanding that the application site lay outside the defined development boundary and within an area identified as open countryside - with limited harm to the character and appearance of the area and the location assessed as being sustainable, ***substantial weight*** was applied to the provision of additional Self-Builds and the ***tilted balance*** engaged and the appeal allowed.

Appeal Ref: APP/H1840/W/19/32/44074 ^{*2}

The appeal site is a rural site located outside defined limits of settlement which the Inspector concluded was not sustainably located for reasonable access to facilities and services without reliance upon private vehicles.

However, whilst in the overall planning balance the Inspector noted some limited harm with regards to the proposed site location, the provision of a Self-Build Dwelling positively addressed the Council's shortfall for self-build housing and in balancing the total benefits against the harm with regards to the location of the development proposal, the said harm was ***significantly and demonstrably*** outweighed by the benefits and the appeal was allowed .

^{*1 & 2} Appendices

Appeal Ref: APP/D3125/W/21/3274197^{*3}

The Inspector found conflict with the Local Plan Policies and the LP's strategy of directing development to settlements with greater facilities and services and although the contribution to the SBCH would be small, the extent of the short fall, the statutory SBCH duty and the economic and social benefits cumulatively amounted to *substantive weight* in the balance and the appeal was allowed.

In respect of both the Market and Self-Build elements of subject planning application, the site is *not* considered to be in an *isolated location* given it's close proximity to other dwellings (No:9 Barwell Lane positioned immediately adjacent to the application site's northern boundary) and the established built development fabric of the lower southern reaches of the settlement.

The exemplar planning appeals seek to assist with the emphasis on the importance of *substantial weight* being applied in the overall planning balance with the engagement of the *tilted balance* due to the failure by the Council in the required mandatory compliance with the statutory duty for both Market and SBCH in the provision of sufficient housing to meet demand which, when viewed in context with a *3.89 YHLS* and the absence of Local Plan Policies for Self-Build and Custom Housebuilding, is considered a *significant material consideration* in the determination of the current subject planning application.

The aforementioned planning appeal decisions are considered most relevant in respect of maintaining consistency to ensure continued confidence in the operational arena of the planning and development control system.

Your comments on '*tilted balance*' are welcomed in the overall broad context of the planning assessment for both the Market and Self-Build planning application.

Martin.

M: (07525) 932713

E: martinladd21@gmail.com

Delegated report

Planning Ref: 23/00824/OUT

Applicant: Mr J Lawrence

Ward: Newbold Verdon with Desford and Peckleton



**Hinckley & Bosworth
Borough Council**

Site: Land at Barwell Lane, Kirkby Mallory, Leicestershire

Proposal: Outline planning application for the construction of up to 7 dwellings, including 3 self-build dwellings, and garages (re-submission of 22/01181/OUT)

1. Recommendations

1.1. Refuse Planning Permission:

Refuse planning permission subject to the reasons at the end of this report.

2. Planning Application Description

- 2.1. The application seeks outline permission for the erection of up to 7 dwellings, including up to 3 self-build dwellings, and garages. All matters are reserved but the site is such that access can only be taken from Barwell Lane.
- 2.2. The application forms set out that three of the proposed seven dwellings are self-build or custom build dwellings.
- 2.3. An illustrative layout is provided that demonstrates how seven detached dwellings and seven double garages could be accommodated on the site. It also shows how a belt of landscaping to the east of the site could be provided on land owned by the applicant beyond the red edged line of the application.
- 2.4. The application is accompanied by the following reports and documents:
 - Planning Statement
 - Landscape Report
 - Noise Assessment Report
 - Ecological Report

3. Description of the Site and Surrounding Area

- 3.1. The site covers just over 0.5 hectares and lies to the south of the rural hamlet of Kirkby Mallory. The site forms part of a larger field that is used to keep horses and there is a stable building in the south west corner of the site. The site lies outside of the settlement boundary of Kirkby Mallory and so is within the countryside.
- 3.2. The site is bordered by a dwelling on Barwell Lane and by a garage court on its northern boundary. To the east is that part of the larger field that is also owned by the applicant, beyond which is Shilton Road and beyond that open farmland. To the south is open farmland that falls gently to the south such that wide views of the surrounding countryside are afforded from the site. To the west beyond Barwell Lane are paddocks beyond with Mallory Park racing circuit further to the west.
- 3.3. Barwell Lane lies at a slightly lower level than the site and there is a mature, well maintained hedge on the boundary to the highway. The hedge to the southern boundary is sparser and has more small trees. The northern boundary consists of fencing and hedging.

- 3.4. Barwell Lane is subject to the national speed limit and the 30mph zone begins just before the existing site entrance which is in the north west corner of the site
- 3.5. Although there is hedging on two sides of the site there are clear views of the site from Peckleton Road/Kirkby Lane when entering Kirkby Mallory from the east.
- 3.6. Kirkby Mallory does not have a conservation area and the closest listed building is a Grade II dwelling located over 110 metres from the northern corner of the site and separated by intervening built development.

4. Relevant Planning History

- 4.1. 22/01181/OUT – Erection of up to seven dwellings and garages (access only) – Refused January 2023 on two grounds 1) unsustainable development outside of the settlement boundary that has significant detrimental impacts on the countryside; and 2) failure to demonstrate adequate and safe access.

00/00176/TEMP – Retention of stables and wagon shelter – Approved April 2000

80/01119/4 – Residential development – Refused September 1980

5. Publicity

- 5.1. The application has been publicised by sending out letters to 36 neighbouring properties. A site notice was also posted at the site.
- 5.2. A total of 13 objections from 12 separate addresses have been received from the occupiers of neighbouring properties, raising the following concerns and points:
- There is a lack of infrastructure, no school, no GP, no bus service, no mains gas, poor internet connection
 - There is no safe access on to the narrow Barwell Lane from the site – the road network can't cope with additional traffic and there have been lots of accidents on Barwell Lane over the years
 - There is already too much traffic noise, speeding vehicles and air pollution
 - This is just a repeat of the earlier refusal and the reasons for refusing the proposal have not changed
 - Access on to Barwell Lane is dangerous as it is within a few metres of the 60mph speed limit
 - The site lies outside of the village in an unsustainable location and would have a significant detrimental effect on the countryside and on the character of Kirkby Mallory
 - Drainage on Barwell Lane is already very poor and the road floods often
 - There would be a detrimental effect on wildlife
 - Kirkby Mallory has already absorbed three phases of new housing at Church Road, Preston Close and Summers Close
 - More people moving in to the village and then complaining about the race track would be disastrous for Mallory Park
 - Encouraging more car journeys is not sustainable or appropriate when environmental concerns are increasing
 - The self-build homes mean a longer period of disturbance for neighbouring residents
 - This would be contrary to the Development Plan
 - The site frontage has no footway or street lighting

- 5.3. There have been no letters of support for the application other than from the Applicant who has submitted additional information during the processing of the application.

6. Consultation

- 6.1. **Kirkby Mallory, Peckleton and Stapleton Parish Council** – Strongly objects to the proposal for the following reasons:

- There does not seem to be any provision to access the rest of the land once the proposed houses are built.

Officer comment: There is no information submitted regarding how the site would be laid out and access to the rest of the field could easily be incorporated into the development

- There is a lack of facilities in the village, no bus service.
- The development is outside the village boundary.
- Barwell Lane is a narrow and winding country lane that is only just wide enough for two cars to pass. A large number of accidents occur each year on the road already, primarily due to the inappropriate use of speed (the holes in the hedge, which increase in number each week, clearly evidence where speeding cars have left the road). The road in places is not in good order and just past the site floods when there is heavy rain.
- The entrance is dangerous and there is limited information about how this would be made safe. The existing vehicle access is just a farm gate with infrequent traffic due to the current limited use of the site. The access is used on average twice a month, considerably different to the proposed usage. With likely two vehicles per household multiplied by 7 households, entering and leaving the site twice per day, that would equate to 840 trips in and out of the site per month which would be a 42,000% increase in traffic. In addition, moving the entrance further down Barwell Lane only increases the hazard due to the speeds of traffic entering the village.
- The supporting information submitted with the application states that there would be no impact on existing residential amenity. Neighbouring properties all have drives that open onto Barwell Lane next to the site and therefore the 42,000% increase in traffic as a result of this development would have a significant impact on residents' ability to safely access their own front drives. Given the junction on to Church Road is also so close by, the resulting traffic queues would also severely impact the air and noise quality for which Kirkby Mallory residents already suffer.
Officer comment: The use of this statistic is highly misleading. The increase in traffic referred to is that using the access into and out of the site, not the increase in the volume of traffic using Barwell Lane
- The supporting information outlines personal injury collision data but does not take into consideration the traffic collisions and incidents that have taken place due to the narrow highway entering the village. Barwell Lane is already extremely hazardous due to the narrowing and bends in the road, so statements made about the impact of the development are incorrect.

- 6.2. **LCC Highway Authority** – The Local Highway Advice (LHA) advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 116 of the National Planning Policy Framework (2024).

This application is a re-submission of outline application 22/01181/OUT, which was refused with a highways reason for refusal. The LHA advised that additional information was required in order to fully assess the proposals as part of that application.

Access to the site is not to be determined as part of this application. The Applicant has detailed that there is an existing access to the site off Barwell Lane and that a new access would be constructed fully in accordance with the Leicestershire Highway Design Guide (LHDG). Barwell Lane is an unclassified road with the speed limit changing from 30mph to the national speed limit immediately to the south of the existing access. The Applicant has not provided any details as to where the location of the access would be along the site frontage with Barwell Lane, or details of the available visibility splays.

If outline permission was granted the Applicant will need to demonstrate that a safe and suitable access could be achieved to the site at Reserved Matters stage, which would need to be designed fully in accordance with the LHDG. If the site access was to fall in the location of the national speed limit, then relocation of the 30mph speed limit would be required. The LHA has no objection in principle to the proposals at this stage.

Based on available records there have been no recorded Personal Injury Collisions recorded along Barwell Lane in the last five years (from the junction with Church Road to 500m south of the site).

The local area does not include any education facilities or sustainable transport options such as bus stops served by an hourly bus service. On this basis, the LHA consider the proposals are not in a sustainable location in transport terms.

If permission is granted conditions regarding a construction traffic management plan and the provision of a footway are requested.

- 6.3. **LCC Ecology** – No further comments to make than those made on the previous application that the Ecological Assessment Survey showed no evidence of protected species and that the majority of the survey area had lower habitat values. Given the site and habitats present Biodiversity Net Gain should be achievable given the extent of land ownership. The boundary hedgerows are higher value habitats which need protecting. Evidence of Biodiversity Net Gain would be required at Reserved Matters stage and a condition to this effect is requested.
- 6.4. **HBBC Waste** – No objections subject to a condition regarding waste and recycling storage and collection.
- 6.5. **HBBC Environmental Health** – The Noise Impact Assessment recommends that a condition is applied to any permission requiring the developer to demonstrate that the proposed dwellings will be constructed to meet the requirements of BS8233-2014. Therefore such a condition is requested.
- 6.6. **HBBC Drainage** – No objection subject to a condition regarding surface water drainage.
- 7. **Policy**
 - 7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets
 - Policy 17: Rural Needs
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2024)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
 - Levelling-Up and Regeneration Act (LURA) (2023)
 - Self-Build and Custom Housebuilding Act 2015
- 7.4. Other relevant guidance
- Good Design Guide (2020)
 - HBBC Housing Needs Study (April 2024)
 - Leicestershire Highway Design Guide (2022)
 - Landscape Character Assessment (2017)
 - Landscape Sensitivity Study (2017)
 - Leicestershire Minerals and Waste Local Plan (2019)

8. Appraisal

- 8.1. As this is an outline planning application with all matters reserved except for access, the number of detailed considerations relevant at this stage are limited. Nonetheless, the following represent the key issues:

- Principle of Development
- Housing Land Supply
- Self-Build and Custom Build Development
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact upon Highway Safety
- Flood Risk and Drainage
- Ecology and Biodiversity

Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan

Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) and the Site Allocations and Development Management Policies DPD (2016) (SADMP).

- 8.4. Section 15 of the NPPF relates to conserving and enhancing the natural environment. Paragraph 187 of the Framework states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough and at paragraph 4.29 it states that the focus of most new development will be in and around the Hinckley sub-regional centre as this is where there is a concentration of services, where accessibility can be maximised and modal choice made available. The application site is located adjacent to the settlement of Kirkby Mallory which is identified as a Rural Hamlet. Paragraph 4.45 of the Core Strategy sets out that Rural Hamlets have limited, if any services and generally rely on Key Rural centres or surrounding urban areas for schooling, employment and the provision of goods and services. Paragraph 4.46 states that because of the limited services in hamlets, development will be confined to infill housing development, local choice schemes and conversion of agricultural buildings to employment uses.
- 8.6. The site is on land which is designated as countryside. As such Policies DM4 of the SADMP is one of the policies most relevant with regard to determination of the application.
- 8.7. Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Paragraph 232 of the NPPF states though that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 8.8. Policy DM4 of the SADMP states "that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. While there are differences with the Framework both seek to enhance the local environment by recognising the intrinsic character and beauty of the countryside.
- 8.9. Development in the countryside will be considered sustainable by Policy DM4 where:
 - a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or

e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation”.

- 8.10. The proposed development does not relate to any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable. The application seeks to justify development in this location on the grounds that the Council lacks a 5 year housing land supply and that the site is adjacent to the settlement boundary and is capable of development. The urbanising effects of the proposal are said by the applicant to be minimised, not significant and acceptable given that over time new landscaping will grow and the applicant considers that the development is not out of character within its settlement edge location. The proposal is also supported by a Landscape Report setting out the impact on the wider landscape character.
- 8.11. Officers take a different view with regard to Policy DM4, and this is explored in greater detail in the section relating to the effect of the development on the character and appearance of the area. Importantly Policy DM4 also requires that development meets five further requirements, of which the key one relevant to this particular application is that development is only considered to be sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.12. It is considered that the proposed development fails to comply with Policy DM4. To the extent that Policy DM4 seeks to implement the Core Strategy through its approach to the countryside and settlement boundaries it is out of date. In terms though of the weight that should be afforded to Policy DM4 the emphasis of the policy is to promote sustainable development proposals within the countryside and protect it from unsustainable proposals. In that regard Policy DM4 is broadly consistent with and accords with the aims of the NPPF as set out in Paragraph 187 of the Framework. Therefore, in accordance with Paragraph 232 of the NPPF, which states that due weight should be given to out-of-date policies according to their degree of consistency with the NPPF, Policy DM4 can be afforded significant weight.
- 8.13. Policy DM17 states that development proposals will be supported where they seek to make the best use of existing transport services and, where appropriate, provide opportunities for improving and sustaining the viability of those services and where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 8.14. Policy 13 of the Core Strategy sets out that in rural hamlets the Council will support housing developments within settlement boundaries and will support affordable housing schemes that meet a local need outside of the settlement boundary only where the need cannot be met within it.
- 8.15. Policy 17 of the Core Strategy allows for small scale development to meet a local need adjacent to settlement boundaries provided that the need is a) identified in a plan such as a Neighbourhood Plan and b) cannot be met within the settlement and is otherwise acceptable. The proposal does not include any affordable dwellings and so does not comply with this policy.
- 8.16. The scheme would provide three self-build dwellings, and this aspect of the application is explored in greater detail below.

- 8.17. The Council considers that the proposal is offered no support by Policy DM4 of the SADMP or by Policy 13 of the Core Strategy. Kirkby Mallory is not served by any public transport service. It has no primary school, and its only shop is small and sells a very limited range of goods. Kirkby Mallory is not considered a sustainable location for residential development that lies outside of the settlement boundary unless it meets a local need, which this does not.
- 8.18. As such the application does not accord with Policy 13 of the Core Strategy or with Policies DM4 or DM17 of the SADMP and is therefore unacceptable in principle.

Housing Land Supply

- 8.19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.20. The National Planning Policy Framework was updated on 12 December 2024 and National Planning Practice Guidance has revised the standard method for calculating the local housing need assessment. As a result the Council must revisit its five-year housing land supply position. Whilst further assessment must be made, the Council is unlikely to be able to demonstrate that it has a five year supply of housing land, which is one of the circumstances for engaging the tilted balance of paragraph 11(d) of the NPPF. In any event, due to the age of relevant housing policies within the Core Strategy, the tilted balance is already triggered in accordance with Paragraph 11 and footnote 8 of the NPPF.
- 8.21. Therefore, this application should be determined in accordance with Paragraph 11(d) of the NPPF whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight where they are broadly consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise. It should be noted that the assessment of housing land supply is due to be updated very soon.
- 8.22. Paragraph 11d) of the NPPF states that, for decision makers:
“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:
i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”
- 8.23. Footnote 8 in the NPPF states that the application of this approach includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or

where the Housing Delivery Test indicates that the delivery of housing was below 75% the housing requirement over the previous three years.

- 8.24. Paragraph 61 of the NPPF sets out that *“it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”*.
- 8.25. Paragraph 73 of the NPPF states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. It also states that local planning authorities should seek opportunities to support small sites to come forward for community-led development for housing and self-build housing and give great weight to the benefits of using sustainable sites within existing settlements for homes.
- 8.26. Paragraph 3 of the NPPF confirms that the Framework must be read as a whole. It is important to note that in order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.
- 8.27. As highlighted above, the site does not lie within the settlement boundary of Kirkby Mallory. As such the application site is not considered to be in a location that enhances or maintains the vitality of the rural hamlet, nor is it considered to represent sustainable development in principle.
- 8.28. The development is for up to seven dwellings and therefore Policy 15 (Affordable housing) and Policy 16 (Housing density, Mix and Design) of the Core Strategy are not applicable to this scheme
- 8.29. The provision of up to 7 dwellings is not considered to be a significant benefit to the housing land supply within the Borough. Therefore, it is considered that limited to moderate weight only should be given to the benefits of the application in terms of housing land supply.

Self-Build and Custom Build Development

- 8.30. Further to Paragraph 61 of the NPPF, Paragraph 63 confirms that people wishing to commission or build their own homes are a group to which Paragraph 61 refers.
- 8.31. Up to three of the proposed up to seven dwellings are proposed as self-build dwellings within the definition provided in the Self-Build and Custom Housebuilding Act 2015, which is a material consideration within this planning application.
- 8.32. Section 2A of the Self-Build and Custom Housebuilding Act (as amended by the Housing and Planning Act 2016), and associated secondary legislation, places a duty on local planning authorities to have regard to the Self-Build and Custom Housebuilding Register when making decisions on relevant planning applications. The legislation places a duty on local planning authorities to provide permission to suitable development for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.
- 8.33. As of 31 January 2024 the Levelling Up and Regeneration Act (2023) tightened up the definitions regarding what can be considered appropriate supply for self and custom housebuilding. The Act now requires local authorities to only count planning permissions as part of self-build supply if they are specifically for self-build

development. Therefore any self-build dwelling will need to be secured by legal agreement.

- 8.34. The level of demand is established by reference to the number of entries added to the local planning authority's register during a base period. At the end of each base period, a local planning authority has three years in which to approve an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries on the register for that base period. There is no duty though to grant permission that specifically meets the requirements expressed by those on the register.
- 8.35. If secured by a Unilateral Undertaking, the development would contribute to the current unmet demand for six self-build or custom build housing plots within the Borough and the cumulative need for permissions by the end of the current base period (31 October 2024 to 30 October 2025).
- 8.36. Whilst the LPA are not currently meeting their statutory duty to permit a sufficient number of self-build and custom-build dwellings, the application proposals would only deliver up to three additional dwellings. As such the benefits of this contribution in addressing the limited current shortfall in the Council's provision is considered to attract moderate to significant weight in the determination of this application.

Impact on the Character and Appearance of the Area

- 8.37. Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 8.38. Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. The site is located within open countryside, outside of the settlement boundary and is therefore considered against this policy.
- 8.39. Point c) of Policy DM10 of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.40. The Council's Landscape Character Assessment states that the site falls within Landscape Character Area D: Newbold and Desford Rolling Farmland. Key characteristics of this landscape include "clustered villages of varying size centred on crossroads", "tree cover is limited", large to medium sized field pattern defined by single species hawthorn hedgerows", open views where hedgerows have been removed, giving the impression of a large scale landscape".
- 8.41. Key sensitivities and values noted in the Assessment include: "the rural settlement pattern of compact and nucleated agricultural settlements connected by a network of lanes and minor roads is largely unspoiled. The rural landscape and sense of tranquillity is sensitive to change from further development"; "long distance and panoramic views from the elevated land in the north creates a high scenic quality and adds to the visual amenity" and "the areas which provide a rural setting to the settlements are sensitive to changes as a result of new development, as well as

views from the wider landscape to church spires.” Four of the landscape strategies outlined in the Assessment include “conserve historic field patterns where possible”, “conserve the relatively small-scale villages and ensure any new development contributes positively to the character and built vernacular”, conserve Mallory Park and its predominantly rural setting” and “conserve and enhance the long, panoramic views from higher ground of uncluttered skylines and church spires”.

- 8.42. As set out above the application is supported by a Landscape Report which considers the likely effect of the proposal on the character and appearance of the local landscape setting. At paragraph 3.14 the report states that views of the application site beyond the immediate edge of the settlement are limited to glimpses between buildings and that to the east there are few public receptor groups with views limited to a short section of Peckleton Road.
- 8.43. The LPA disagrees with these findings of the Landscape Report. The location plan at page 19 of the Report makes it clear that views of the site further to the east along Peckleton Road have not been assessed or taken into account. It is also considered that the Landscape Report fails to take account of the likely change to the site frontage that would be required to address the highway works necessary to provide adequate and safe pedestrian and vehicular access to the site.
- 8.44. The failure to demonstrate adequate and safe access to the site was one of the two reasons for refusal of the previous application on the site and the current application avoids having to address this issue by simply removing access from consideration.
- 8.45. The approach to Kirkby Mallory along Barwell Lane is entirely rural. The lane is bounded by grass verges and comparatively high hedges. There are glimpses of the existing buildings that front the lane, particularly when the native species hedges are not in leaf, due to the orientation of the road. The village sign with the 30mph limit sign beyond are accompanied by white road marking warning drivers to slow but the entire site frontage is devoid of kerbs or hardstanding and even the access into the site which was once hardsurfaced is now mostly grassed over. On the opposite side of the road there is just a kerb to the highway beyond which is a grass verge and mature hedging. As the lane curves to the north the village is only revealed gradually with the presence of the existing pavement on the east side of the lane, the driveways and the gable of the small village shop that is at the back of the footway at the junction of Barwell Lane with Church Road.
- 8.46. The LPA considers that there are significant and extensive medium to long distance views of the site from Peckleton Lane to the east, particularly once the highway begins to drop and the village is clearly laid out on the horizon. New development on the site would be clearly viewable and prominent as an extension to the existing built development limits. As the submitted application documents point out, there is currently no physical boundary to the eastern boundary of the site which forms part of the larger field.
- 8.47. Officers consider that the submitted Landscape Report significantly underestimates the impacts of the proposal. It is material to note that the area is not a ‘valued landscape’ for NPPF purposes. Indeed there are no landscape or environmental designations or sensitivities of note for the site and its immediate surroundings.
- 8.48. For the reasons set out officers consider that the Landscape Report submitted in support of the application significantly underestimates the effects that the proposal would have on the character and appearance of the site and surrounding area. The proposal results in a significant, detrimental, and irreversible, urbanising and

domesticating effect on the intrinsic value, beauty, open character and landscape character of the countryside and the surrounding area.

- 8.49. The application is considered to have major adverse effects on the landscape that continue into the long term, and the proposed development results in a significant detrimental effect on the character and appearance of the site and surrounding area. These effects are considered contrary to Policies DM4 and DM10 of the SADMP and the requirements of sections 2, 12 and 15 of the NPPF. These adverse effects are significant and weigh significantly against the application.

Impact upon Residential Amenity

- 8.50. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.51. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.52. Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.53. It is considered that the scheme, subject to the detailed matters to come forward at Reserved Matters stage, could be designed such to have a suitable relationship with nearby residential units.
- 8.54. Additional information with respect to contamination and a Construction Environmental Management Plan could be appropriately sought via condition.
- 8.55. Concerns raised by the neighbours to the scheme are noted, but it is considered that the use of conditions, together with the Council's continued role in assessing detailed plans at Reserved Matters stage, would ensure that sufficient scrutiny and control would be retained to ensure all concerns are appropriately addressed.
- 8.56. It is considered that the proposed development could be designed such to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

Impact upon Highway Safety

- 8.57. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).

- 8.58. Paragraph 115 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 116 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.59. The applicant has removed access details from the application so that detailed access matters are now addressed at reserved matters stage. The concerns of the LPA regarding the effect that provision of safe and suitable access would have on the character and appearance of the site and surrounding countryside are set out above
- 8.60. As a result though of removing access from those matters to be addressed under this application the Local Highway Authority no longer requires additional information to be submitted at this stage and on that basis the LHA no longer object to the proposal.
- 8.61. Highway concerns have been raised by local residents and by the Parish Council. The applicant would be required to address any concerns that the LHA has regarding highway safety as expressed previously on application 22/01181/OUT but at this outline stage, as access is not a matter for which approval is sought, there are no grounds for refusal of the application on highway grounds.

Flood Risk and Drainage

- 8.62. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.63. Paragraph 172 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere.
- 8.64. The site lies within Flood Zone 1 on the Environment Agency Flood Maps for Planning. The Flood Maps indicate a small risk of surface water flooding to the immediate west of the application site.
- 8.65. The HBBC Drainage Officer has no objections subject to a condition to secure a surface water drainage scheme being submitted and approved prior to any development taking place. Subject to the suggested condition, it is considered that the proposed development would satisfy Policy DM7 of the SADMP and the NPPF.

Ecology and Biodiversity

- 8.66. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 187 of the NPPF states that planning decisions should minimise impacts on and provide net gains for biodiversity.
- 8.67. The ecology information submitted with the application is that submitted with the previous application 22/01181/OUT which is dated August 2021. It concludes that the site is of low ecological value, that no protected species were identified as using the site and that the proposed development will not affect the biodiversity of the site or surrounding area. The County Ecologist has stated that they have no further comments to make than those made on the previous application which were that a

Biodiversity Net Gain should be achievable given the extent of land ownership and that the existing boundary hedges needed protecting. A condition was recommended regarding an ecological enhancement strategy.

- 8.68. It is considered that the provision of a biodiversity net gain and appropriate protection of existing habitats and wildlife could be secured via condition. Subject to the condition requirements this application is considered acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Conclusions and Planning Balance

- 8.69. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.70. The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.71. The provision of up to seven dwellings is considered to be a benefit of the proposal to which limited to moderate weight in favour of the scheme is attached. While no signed Unilateral Undertaking has been submitted which would secure that up to three of the proposed dwellings would be self-build dwellings it is considered that such an undertaking could readily be supplied. It is also acknowledged that the applicant has expressed no unwillingness to enter into such a legal agreement. The application has been assessed on the basis that three of the dwellings are self-build homes. As set out above the provision of three self-build plots is a moderate to significant benefit of the scheme.
- 8.72. The Council considers that the proposal is offered no support by Policy DM4 of the SADMP. As such the application does not accord with development plan policy and is unacceptable in principle. These policies are considered to be broadly consistent with the overall aims of the NPPF and that significant weight should be attached to the fact that the proposal is contrary to the development plan and would undermine the plan led approach endorsed by the Framework.
- 8.73. The proposed development has a harmful effect on the character and appearance of the countryside. It would be contrary to Policy DM4 of the SADMP which seeks to protect the intrinsic character and beauty of the countryside from unsustainable development. The development would also be contrary to the environmental protection aims of the NPPF. This matter attracts significant weight.
- 8.74. The application site is in an unsustainable location that benefits from no public transport, no primary or secondary school and no shop that stocks anything beyond a very limited range of goods, and where the future occupiers of the scheme would be dependent on private motorised transport to meet their day-to-day needs. As a result of this unsustainable location, the development causes significant environmental harm and fails to promote high levels of sustainability, which is

contrary to, and in conflict with, Policies DM4 and DM17 of the SADMP as well as Paragraph 139 and Section 9 and the overarching environmental objectives of the NPPF. This harm attracts significant weight in the planning balance.

- 8.75. Other benefits of the scheme include the economic and social benefits through the construction of dwellings and from subsequent activities of future residents in the local area. These benefits are considered to attract limited weight.
- 8.76. Consequently, even taking into account the housing land supply position, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. The proposal would not therefore represent sustainable development.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

- 9.3 There are no known equality implications arising directly from this development.

- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Recommendation

- 10.1 **That the application be Refused** for the reasons set out below:

1. The development represents unjustified residential development in an unsustainable location that fails to promote sustainable transport. The future occupants of the scheme would be dependent on private motorised transport to meet their day-to-day needs, and this results in significant environmental harm. As a result the proposal is contrary to, and in conflict with, the requirements of Policies DM4 and DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Paragraphs 8, 139, and 187, and Sections 9 and 15 of the National Planning Policy Framework (2024).

2. The application site lies outside of the defined settlement boundary of Kirkby Mallory and so lies within the countryside. The development of up to seven dwellings on the site would result in a significant, detrimental, irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character and landscape character of the countryside. This harm significantly and demonstrably outweighs the benefits of the development. The proposal is contrary to and in conflict with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Document (2016) and Paragraphs 139 and 187, and Sections 2, 9, 11, 12 and 15 of the National Planning Policy Framework (2024).

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Mr J Lawrence

Name and Address of Agent (if any)

Stephen Clarke
Sansom Clarke Chartered Surveyors
4 Station Road
Ibstock
Leicestershire
LE67 6JJ

Part I - Particulars of Application

Date of Application

22 August 2023

Application No.

23/00824/OUT

Particulars and location of development:

Outline Planning application for the construction of up to 7 dwellings, including 3 self-build dwellings, and garages (re-submission of 22/01181/OUT)

Land Barwell Road Kirkby Mallory Leicestershire

Part II - Particulars of decision

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council refuses to permit the carrying out of the development referred to in Part I hereof for the following reason(s):-

1. The development represents unjustified residential development in an unsustainable location that fails to promote sustainable transport. The future occupants of the scheme would be dependent on private motorised transport to meet their day-to-day needs, and this results in significant environmental harm. As a result the proposal is contrary to, and in conflict with, the requirements of Policies DM4 and DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016), and Paragraphs 8, 139, and 187, and Sections 9 and 15 of the National Planning Policy Framework (2024).
2. The application site lies outside of the defined settlement boundary of Kirkby Mallory and so lies within the countryside. The development of up to seven dwellings on the site would result in a significant, detrimental, irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character and landscape character of the countryside. This harm significantly and demonstrably outweighs the benefits of the development. The proposal is contrary to and in conflict with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 139 and 187, and Sections 2, 9, 11, 12 and 15 of the National Planning Policy Framework (2024).

IMPORTANT - PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

NOTES TO APPLICANT :-

1. This application was assessed by reference to plans submitted by the Applicant that were received by the Local Planning Authority, as follows:
 - o Illustrative Site Layout Plan - Drg No. 00501/SC/01 (submitted: 08.05.2024)
 - o Site Location Plan (submitted: 22.08.2023)

C. Brown.

Christopher Brown MRTPI
Head of Planning

Date: 16 January 2025

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.
2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review
3. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. If your appeal is against a Minor Commercial Development, we would advise you to view the guidance on the Planning Portal website under Procedure Guidance, to confirm the time frame for appealing. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/appeal-planning-decision>). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within six months of the date of this notice. If you intend to submit an appeal that you would like examined by inquiry then you must notify your Local Planning Authority (planning@hinckley-bosworth.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found on GOV.UK.
4. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then, you must do so in accordance with the guidance found using the following link <https://www.gov.uk/appeal-enforcement-notice/>.
5. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

RNOTES (02/07/2014)